1981 OMNIBUS TERRITORIES

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 1674

A BILL TO AMEND OR REPEAL CERTAIN PROVISIONS OF THE ORGANIC ACTS APPLICABLE TO THE VIRGIN ISLANDS, AND FOR OTHER PURPOSES

OCTOBER 21, 1981

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1981 OMNIBUS TERRITORIES

WEDNESDAY, OCTOBER 21, 1981

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 8:30 a.m., in room 3110, Dirksen Office Building, Hon. Lowell P. Weicker, Jr., presiding.

Present: Senator Weicker.

Also present: James P. Beirne, counsel.

OPENING STATEMENT OF HON. LOWELL P. WEICKER, JR., A U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator WEICKER. The hearing will come to order.

This hearing has been scheduled to consider S. 1674, legislation to amend the revised Organic Act of the Virgin Islands and for other purposes.

Copies of S. 1674 and the reports of the executive agencies will be made a part of the record.

In view of the need to conclude this hearing prior to the scheduled 10 a.m. business meeting of the committee, I would appreciate it if each witness would submit his prepared statement for the record and briefly summarize.

Title I of S. 1674 was prepared by the administration as a drafting service to the committee to identify those provisions of Federal law which must be repealed if the proposed constitution of the Virgin Islands is to become effective.

Since the Virgin Islands constitution will not have the status of Federal law, it would be superseded by any provisions of the revised Organic Act which deal with local government.

It is not the intent of title I to affect Federal relations in any manner and questions related to Federal relations should be left to the Virgin Islands Status Commission and the administration until submitted to Congress at an appropriate time.

Title II of S. 1674 includes several sections either under consideration by the House or requested by the territorial governments and a provision contained in section 204 which would provide the Appropriations Committee with the authority and flexibility to meet any unforeseen or unintended impacts of the recent budget cuts and tax revision in order for the Congress to discharge its responsibilities under its plenary authority over territories.

[The text of S. 1674 and report from the Postal Service follow:]

II

97TH CONGRESS
1ST SESSION

S. 1674

To amend or repeal certain provisions of the organic acts applicable to the Virgin Islands, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28 (legislative day, SEPTEMBER 9), 1981

Mr. WEICKER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend or repeal certain provisions of the organic acts applicable to the Virgin Islands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. Section 2 of the Revised Organic Act of the Virgin Islands (68 Stat. 497; 48 U.S.C. 1541) is amended to read as follows:

"SEC. 2. (a) The provisions of this Act, and the name 'Virgin Islands' as used in this Act, shall apply to and include the territorial domain, islands, cays, and waters ac-

quired by the United States through cession of the Danish West Indian Islands by the convention between the United States of America and His Majesty the King of Denmark entered into August 4, 1916, and ratified by the Senate on September 7, 1916 (39 Stat. 1706). The Virgin Islands as above described are declared an unincorporated territory of the United States of America the people of which territory, pursuant to the authority conferred upon them by the Act of Congress of October 21, 1976, Public Law 94–584, have organized their government pursuant to a Constitution of their own adoption.

"(b) The government of the Virgin Islands shall have the powers set forth in this Act and in the Constitution of the Virgin Islands.".

SEC. 102. Section 3 of the Revised Organic Act of the Virgin Islands (68 Stat. 498; 48 U.S.C. 1561) is amended to read as follows:

"SEC. 3. To the extent that they are not applicable of their own force, the following provisions of and amendments to the Constitution of the United States are applicable to the Virgin Islands and shall have the same force and effect there as in the United States or in any State of the United States: article I, section 9, clauses 2 and 3; article IV, section 1 and section 2, clause 1; the first to ninth amendments inclusive; the thirteenth amendment; the second sentence of section 1

of the fourteenth amendment; and the fifteenth, and nineteenth amendments: *Provided, however,* That all criminal prosecutions arising under local law shall continue to be had by information as heretofore, except such as may be required by local law to be had by indictment by grand jury.".

SEC. 103. Section 8(a) of the Revised Organic Act of the Virgin Islands (68 Stat. 500; 48 U.S.C. 1574(a)) is amended to read as follows:

"SEC. 8. (a) The legislative authority and power of the Virgin Islands shall extend to all rightful subjects of legislation.".

SEC. 104. Section 8(c) of the Revised Organic Act of the Virgin Islands (68 Stat. 500; 48 U.S.C. 1574(a)) is amended to read as follows:

"(c) The laws of the United States applicable to the Virgin Islands on the effective date of this amendatory Act shall continue in force and effect until otherwise provided by Congress.".

SEC. 105. Section 11 of the Revised Organic Act of the Virgin Islands (68 Stat. 503; 48 U.S.C. 1591) is amended to read as follows:

"SEC. 11. Whenever it becomes necessary, in case of disaster, invasion, insurrection, or rebellion, or imminent danger thereof, or to prevent or suppress lawless violence, the Governor may request assistance of the senior military or

naval commander of the Armed Forces of the United States in the Virgin Islands or Puerto Rico, which may be given at the discretion of such commander if not disruptive of, or inconsistent with, his Federal responsibilities.".

SEC. 106. Section 21 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1611) is amended to read as follows:

"SEC. 21. (a) The judicial power of the Virgin Islands shall be vested in a court of record designated the 'District Court of the Virgin Islands', and such appellate court and lower local court or courts as may have been or may hereafter be established by the Constitution of the Virgin Islands or by local law.

"(b) The Constitution and laws of the Virgin Islands may vest in the courts of the Virgin Islands jurisdiction over all causes in the Virgin Islands over which any court established by the Constitution and laws of the United States does not have exclusive jurisdiction.".

SEC. 107. (a) Section 22 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1612) is amended to read as follows:

"SEC. 22. (a) The District Court of the Virgin Islands shall have the jurisdiction of a district court of the United States, and, effective April 1, 1984, that of a bankruptcy court of the United States.

"(b) In addition to the jurisdiction described in subsection (a) the District Court of the Virgin Islands shall have general original jurisdiction in all causes in the Virgin Islands the jurisdiction over which is not vested by the Constitution or laws of the Virgin Islands in the courts of the Virgin Islands: *Provided,* That jurisdiction of the District Court of the Virgin Islands under this subsection shall not extend to civil actions wherein the matter in controversy does not exceed the sum or value of $500, exclusive of interest and costs, to criminal cases wherein the maximum punishment which may be imposed does not exceed a fine of $100 or imprisonment for six months, or both, and to violations of local police and executive regulations. The courts of the Virgin Islands shall have exclusive jurisdiction over the civil actions, criminal cases, and violations set forth in the preceding proviso. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court of the Virgin Islands for the purposes of determining the requirements of indictment by grand jury or trial by jury.

"(c) The provision of this section shall not result in the loss of jurisdiction of the District Court of the Virgin Islands over any complaint or proceeding pending in it on the day preceding the effective date of this amendatory Act and such complaint and proceeding may be prosecuted to final determination in the District Court of the Virgin Islands, the United

States Court of Appeals for the Third Circuit, and the Supreme Court, notwithstanding the provisions of this amendatory Act.".

(b) Section 336(a) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2680) is repealed.

SEC. 108. Section 23 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1613) is amended to read as follows:

"SEC. 23. The relations between the courts established by the Constitution or laws of the United States and the courts of the Virgin Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters of proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings: *Provided*, That the United States Court of Appeals for the Third Circuit shall have jurisdiction of appeals from all final decisions of the highest court of the Virgin Islands from which a decision could be had in all cases involving the Constitution, treaties or laws of the United States, or any authority exercised thereunder. The United States Court of Appeals for the Third Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.".

SEC. 109. The Revised Organic Act of the Virgin Islands is amended by adding to it a new section 23A:

"SEC. 23A. (a) Pending the establishment of the appellate court provided for in article VII, section 2 of the Constitution of the Virgin Islands, the judgments and orders of the lower local courts of the Virgin Islands may be reviewed in the appellate division of the district court to the extent now or hereafter prescribed by local law.

"(b) The appellate division of the district court shall consist of three judges, of whom two shall constitute a quorum. The chief judge of the district court shall be the presiding judge of the appellate division and shall preside there unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division shall be designated by the presiding judge from among the judges who are serving on, or are assigned to, the district court pursuant to section 24 of this Act: *Provided,* That only one of them shall be a judge of a court of the Virgin Islands which must be a court of record. The concurrence of two judges shall be necessary to any decision by the district court on the merits of an appeal, but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or

prosecute it in accordance with the applicable law or rules of procedure.

"(c) The United States Court of Appeals for the Third Circuit shall have jurisdiction of appeals from all final decisions of the appellate division of the district court involving the Constitution, treaties, or laws of the United States or any authority exercised thereunder. The United States Court of Appeals for the Third Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

"(d) The provisions of this section shall not apply to any appeal or other method of review from the decisions of the lower local courts of the Virgin Islands pending on the effective date of this Act in the District Court of the Virgin Islands, the United States Court of Appeals for the Third Circuit, or the Supreme Court of the United States.".

SEC. 110. (a) Section 24(a) of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1614(a)) is amended to read as follows:

"(a) The President shall, by and with the advice and consent of the Senate, appoint two judges for the District Court of the Virgin Islands, who shall hold office for terms of eight years and until their successors are chosen and qualified, unless sooner removed by the President for cause. The judge of the district court who is senior in continuous service

and under seventy years of age shall be the chief judge of the court. The salary of a judge of the district court shall be at the rate prescribed for judges of the United States district courts. Whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the district court, the chief judge of the Third Judicial Circuit of the United States may assign a judge of a court of the Virgin Islands whose qualifications comply with the requirements of Article VII, section 6 of the Constitution of the Virgin Islands or a circuit or district judge of the Third Circuit, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit, to serve temporarily as a judge of the District Court of the Virgin Islands. The compensation of the judges of the district court and the administrative expenses of the court shall be paid from appropriations made for the judiciary of the United States.".

(b) Section 24(b) of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1614(b)) is amended to read as follows:

"(b) Where appropriate, the provisions of part II of title 18 and of title 28, United States Code, and the rules of practice and procedure heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the

United States pursuant to titles 11, 18, and 28 United States Code shall apply to the district court and appeals therefrom: *Provided,* That all criminal prosecutions in the district court arising under local law shall continue to be had by information, except such as may be required by local law to be prosecuted by indictment by grand jury: *And provided further,* That the terms 'attorney for the government' and 'United States attorney' as used in the Federal Rules of Criminal Procedure shall, when applicable to cases arising under local law, include the Attorney General of the Virgin Islands or any other person or persons as may be authorized by the laws of the Virgin Islands to act therein.".

SEC. 111. Section 25 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1615) is amended to read as follows:

"SEC. 25. The Virgin Islands consists of two judicial divisions; the Division of Saint Croix, comprising the island of Saint Croix and adjacent islands and cays, and the Division of Saint Thomas and Saint John, comprising the Islands of Saint Thomas and Saint John and adjacent islands and cays. Court for the Division of Saint Croix shall be held in Christiansted, and for the Division of Saint Thomas and Saint John at Charlotte Amalie.".

SEC. 112. Section 27 of the Revised Organic Act of the Virgin Islands (68 Stat. 507; 48 U.S.C. 1617) is amended by

deleting the word "inferior," wherever it appears, and by deleting the last two sentences.

SEC. 113. Section 29 of the Revised Organic Act of the Virgin Islands (68 Stat. 509; 48 U.S.C. 1543) is amended to read as follows:

"SEC. 29. All members of the legislature of the Virgin Islands, the Governor, the Lieutenant Governor, all judges, and all officials of the government of the Virgin Islands who report directly to the Governor shall be citizens of the United States.".

SEC. 114. Section 30 of the Revised Organic Act of the Virgin Islands (68 Stat. 509; 48 U.S.C. 1544) is amended to read as follows:

"SEC. 30. (a) The Federal Government's relations with the government of the Virgin Islands shall be under the general administrative supervision of the Secretary of the Interior in a manner consistent with the specific program responsibilities of other Federal departments or agencies.

"(b) The President is authorized to place all matters pertaining to the government of the Virgin Islands under the general jurisdiction of the Secretary of the Interior, except matters relating to the judicial branch of said government which are under the supervision of the Director of the Administrative Office of the United States Courts, and the matters relating to the United States Attorney and the United

States Marshal which are under the supervision of the Attorney General.

"(c) The Governor of the Virgin Islands shall make to the Secretary of the Interior an annual report of the transactions of the government of the Virgin Islands for transmission to the Congress, including a listing of all laws enacted by the legislature of the Virgin Islands during such year.".

SEC. 115. The Revised Organic Act of the Virgin Islands of July 22, 1954, is amended by substituting "legislature" for "Legislature" wherever that spelling appears in the Act.

SEC. 116. Pending the enactment of pertinent legislation by the Virgin Islands, the government of the Virgin Islands shall continue to have the right to sue by such name, to be sued in cases arising out of contract, and, in cases arising out of tort, to be sued as provided for by the laws of the Virgin Islands on the effective date of this Act.

SEC. 117. The following provisions of the Revised Organic Act of the Virgin Islands of 1954, as amended, are repealed: Section 4 (68 Stat. 498; 48 U.S.C. 1542); section 5 (68 Stat. 498; 48 U.S.C. 1571); section 6 (68 Stat. 499; 48 U.S.C. 1572); section 7 (68 Stat. 500; 48 U.S.C. 1573); section 8 (d) and (e) (68 Stat. 500; 48 U.S.C. 1574 (d) and (e)); section 9 (68 Stat. 501; 48 U.S.C. 1575); section 10 (68 Stat. 502; 48 U.S.C. 1576); section 12 (68 Stat. 503; 48

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U.S.C. 1593); section 14 (68 Stat. 504; 48 U.S.C. 1595); section 16 (68 Stat. 504; 48 U.S.C. 1597); section 20 (68 Stat. 506; 48 U.S.C. 1641).

SEC. 118. Section 18 of the Organic Act of the Virgin Islands of June 22, 1936 (49 Stat. 1811; 48 U.S.C. 1405q), is amended to read as follows:

"SEC. 18. Title 17, United States Code, relating to copyrights, shall apply to the Virgin Islands.".

SEC. 119. The following provisions of the Organic Act of the Virgin Islands of June 22, 1936, as amend d, shall be deemed to have expired or been superseded by subsequent legislation: Section 2 (49 Stat. 1807; 48 U.S.C. 1405a); section 3 (49 Stat. 1807; 48 U.S.C. 1405b); section 5 (49 Stat. 1808; 48 U.S.C. 1405d); section 6 (49 Stat. 1808; 48 U.S.C. 1405e); section 7 (49 Stat. 1808; 48 U.S.C. 1405f); section 8 (49 Stat. 1809; 48 U.S.C. 1405g); section 11 (49 Stat. 1809; 48 U.S.C. 1405j); section 12 (49 Stat. 1809; 48 U.S.C. 1405k); section 13 (49 Stat. 1810; 48 U.S.C. 1405l); section 14 (49 Stat. 1810; 48 U.S.C. 1405m); section 15 (49 Stat. 1810; 48 U.S.C. 1405n); section 16 (49 Stat. 1810; 48 U.S.C. 1405o); section 17 (49 Stat. 1811; 48 U.S.C. 1405p); section 19 (49 Stat. 1811; 48 U.S.C. 1405r); section 22 (49 Stat. 1812; 48 U.S.C. 1405u); section 23 (49 Stat. 1813; 48 U.S.C. 1405v); section 24 (49 Stat. 1813; 48 U.S.C. 1405w); section 25 (49 Stat. 1813; 48 U.S.C. 1405x); sec-

tion 27 (49 Stat. 1813; 48 U.S.C. 1405z); section 28 (49 Stat. 1814; 48 U.S.C. 1406); section 29 (49 Stat. 1814; 48 U.S.C. 1406a); section 30 (49 Stat. 1814; 48 U.S.C. 1406b); section 31 (49 Stat. 1814; 48 U.S.C. 1406c); section 32 (49 Stat. 1814; 48 U.S.C. 1406d); section 33 (49 Stat. 1815; 48 U.S.C. 1406e); section 34 (49 Stat. 1815; 48 U.S.C. 1406g); section 35 (49 Stat. 1816; 48 U.S.C. 1406h); section 37 (49 Stat. 1817; 48 U.S.C. 1406f); and section 39 (49 Stat. 1817; 48 U.S.C. 1406k).

SEC. 120. The following statutes are deemed to have expired or be superseded by subsequent legislation including this Act:

(a) Section 2 (62 Stat. 922; 48 U.S.C. 1392); section 3 (64 Stat. 784; 48 U.S.C. 1394); and section 5 (39 Stat. 1133; 48 U.S.C. 1396) of the Act of March 3, 1917, as amended.

(b) That portion of section 1 of the Naval Appropriations Act of 1922, of July 12, 1921 (42 Stat. 123; 48 U.S.C. 1393), which reads: "That no person owing allegiance to any country other than the United States of America shall be eligible to hold office as a member of the colonial councils of the Virgin Islands of the United States nor to hold any public office under the government of said islands: *Provided further,*".

(c) The Act of May 2, 1932 (47 Stat. 160; 48 U.S.C. 1400);

(d) Section 2 of the Act of July 1, 1932 (47 Stat. 565; 48 U.S.C. 1392b);

(e) The Act of December 20, 1944, as amended (58 Stat. 827; 48 U.S.C. 1409 to 1409j);

(f) The Act of June 30, 1949, as amended (63 Stat. 350; 48 U.S.C. 1407 to 1407i): *Provided,* That nothing in this subsection shall affect the pension rights of former employees of the Virgin Islands Corporation;

(g) The Act of October 29, 1951, as amended (65 Stat. 661; 48 U.S.C. 1409m through 1409o);

(h) Section 4 of the Act of August 19, 1976 (90 Stat. 1195; 48 U.S.C. 1574d).

SEC. 121. If any provision of this title is held invalid, the holding shall not affect the validity of any other provision of this title. If an application of a provision of this title is held invalid, the holding shall not affect the validity of any provision of this title or any other application of this title.

SEC. 122. This title shall become effective on the day of its enactment or on the day on which the fourth constitution of the Virgin Islands (1980) becomes effective, whichever is the later date.

TITLE II

SEC. 201. (a) The Organic Act of Guam (64 Stat. 384), as amended, is further amended by adding after section 11 the following:

"SEC. 11a. The people of Guam shall have the right of initiative and referendum, to be exercised under the conditions and procedures specified in the laws of Guam.".

(b) The Organic Act of Guam (64 Stat. 384), as amended, is further amended by adding after section 7 the following:

"SEC. 7a. (a) Any official of Guam named in the subsection (b) may be removed from office by a referendum election in which more than one-half of the number of votes cast for the candidates for such office in the last preceding general election at which such official was elected are cast in favor of recall and in which those so voting cast a majority of all those participating in the referendum election. The referendum election shall be initiated by the Governor following—

"(1) a two-thirds vote of the members of the legislature in favor of a referendum; or

"(2) a petition for such referendum to the Governor by the registered voters equal in number to at least 40 per centum of the whole number of votes cast for the candidates for such office at the last general elec-

tion at which such office was filled preceding the filing of the petition.

"(b) The officials subject to recall under this section are—

"(1) The Lieutenant Governor; and

"(2) The members of the legislature.".

SEC. 202. The officials of the Customs and Postal Services of the United States are hereby directed to assist the appropriate officials of the United States Virgin Islands in the collection of local excise taxes.

SEC. 203. In section 402(a) of Public Law 96–597 (94 Stat. 3478) strike "by October 1, 1982," and insert in lieu thereof: "by the date of termination of the trusteeship agreement governing the Administration of the Trust Territory of the Pacific Islands,"

SEC. 204. Effective October 1, 1982, there is authorized to be appropriated to the Secretary of the Interior such sums as may be necessary for grants (1) to the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands to offset reductions in, or the termination of, Federal grant-in-aid programs applicable to such areas in fiscal year 1981 and (2) to the Virgin Islands, Guam, and American Samoa to reimburse such areas (in amounts equal to any reductions in revenues)

for any revenue reductions they sustain as a result of the enactment of any general Federal tax revision or reduction.

O

UNITED STATES POSTAL SERVICE
475 L'Enfant Plaza, SW
Washington, DC 20260

October 19, 1981

Dear Mr. Chairman:

This responds to your request for the views of the Postal Service on S. 1674, a bill to amend or repeal certain provisions of the organic acts applicable to the Virgin Islands, and for other purposes.

Our interest is limited to section 202 of the bill, which provides for cooperation by Customs and Postal Service officials with officials of the United States Virgin Islands in the collection of local excise taxes. The Postal Service has no objection to what we understand to be the intent of this provision, to authorize assistance by the Postal Service to the Virgin Islands similar to the assistance rendered to the Government of Puerto Rico under 48 U.S.C. §741a (1976) and Domestic Mail Manual §115.96. Such assistance would enable Virgin Islands tax collection officials to inspect the outside cover of parcels entering the Virgin Islands in the mails and to record the information thereon for purposes of collecting excise taxes payable at the time of importation for certain goods arriving through the mails.

As a technical matter, we believe that the language of section 202, which currently refers broadly to "the collection of excise taxes", should be drafted more narrowly to refer only to those excise taxes for which the Virgin Islands reasonably may look to the Postal Service for collection assistance, namely those imposed under section 405 of the Act of March 12, 1980, Pub. L. No. 96-205, 94 Stat. 99 (48 U.S.C. §1574 note), which are assessed at the time of importation. In place of the broad provision in present section 202 standing alone, we suggest an amendment to section 405 adding an additional sentence at the end reading as follows: "The officials of the Customs and Postal Services of the United States are directed to assist the appropriate officials of the United States Virgin Islands in the collection of these taxes." It may also be useful to repeal the related obsolete

provisions found in the second proviso and the last sentence of section 4 of the Act of March 3, 1917, as enacted by the Act of June 24, 1932, 47 Stat. 333 (48 U.S.C. §1395).

With these changes, the Postal Service would have no objection to the approval of S. 1674.

Sincerely,

W. Allen Sanders

W. Allen Sanders
Associate General Counsel
Office of General Law
and Administration

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Senator WEICKER. The first witness to appear before the committee will be Diane Morales, Deputy Assistant Secretary of the Interior for Territorial and International Affairs, accompanied by Herman Marcuse from the Justice Department.

Please proceed.

STATEMENT OF DIANE K. MORALES, DEPUTY ASSISTANT SECRETARY FOR TERRITORIAL AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR

Ms. MORALES. I do have a prepared statement but I will summarize it.

Mr. Chairman, we appreciate this opportunity to discuss the provisions of S. 1674.

The Department of the Interior is concerned with several provisions of title I which would amend or repeal Federal law applicable to the Virgin Islands and section 204 which would authorize grants for U.S. offshore areas to offset losses due to tax reductions and Federal program reductions.

The Department has no objection to section 201 and defers to the Department of the Treasury and the U.S. Postal Service on section 202 and supports section 203.

With regard to title I, this Department supports the title I changes in Federal law as far as they go. We believe that additional language needs to be added. Attached to my statement is a list of title I amendments that would be necessary in order to gain administration support for title I.

The first amendment we would recommend is the addition of the words "under the sovereignty" to section 2 of the revised Organic Act.

The second amendment we recommend would make a number of additional provisions of the U.S. Constitution expressly applicable to the Virgin Islands.

The third amendment we recommend would make the supremacy clause contained in our amendment to section 3 of the revised Organic Act explicitly applicable to the legislative power of the legislature of the Virgin Islands.

The fourth amendment we recommend would give exclusive jurisdiction to the district court of the Virgin Islands over all judicial proceedings in the Virgin Islands involving income tax laws applicable to the Virgin Islands, except those enacted by the legislature of the Virgin Islands.

Regarding section 204, the administration strongly opposes this provision. There are several reasons for this opposition. First, the language is open ended as to time. Second, while we have some preliminary estimates, they are in a state of flux and will be until the end of the fiscal year. Third, equity requires that the territories shoulder their fair share of the economic recovery grant and tax reductions. Fourth, section 204 would send the wrong signal to the territories, raising their expectations even though there may be no appropriation to back up the authorization.

We at Interior are deeply concerned with the difficult fiscal situation facing the territories but we do not believe the solution is to cover in advance from the Federal Treasury arbitrary estimates of the effect of grant and tax reductions. Rather we would expect the territories like the States to make adjustments in grant and tax administration. When the actual revenue picture becomes clear, we will encourage a review of the situation within the administration.

Thank you for this opportunity to express our views on S. 1674.

[The prepared statement of Ms. Morales follows:]

STATEMENT OF DIANE K. MORALES, DEPUTY ASSISTANT SECRETARY FOR TERRITORIAL AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES ON S. 1674, October 21, 1981

Mr. Chairman.

We appreciate this opportunity to discuss the provisions of S. 1674. The Department of the Interior is concerned with (1) several provisions of Title I, which would amend or repeal Federal law applicable to the Virgin Islands, and (2) section 204, which would authorize grants for United States offshore areas to offset losses due to tax reductions and Federal program reductions. The Department has no objection to section 201, defers to the Department of the Treasury and the United States Postal Service on section 202, and supports section 203.

TITLE I VIEWS

Title I would amend or repeal those provisions of Federal law that would not be necessary if the Fourth Constitution of the Virgin Islands (1980) is approved at referendum by the voters of the Virgin Islands. As you may know, the referendum is scheduled for November 3, 1981. This Department supports the Title I changes in Federal law as far as they go. We believe, however, that additional language needs to be added. Attached to my written statement (attachment numbered 1) is a

list of Title I amendments that would be necessary in order to gain Administration support for Title I. We will soon transmit a report on S. 1674, to which we will attach a Title I that incorporates these amendments.

The first amendment we recommend is the addition of the words "under the sovereignty" to section 2 of the Revised Organic Act. Public Law 94-584, which authorized the drafting of the proposed Virgin Islands Constitution, stated that the constitution shall recognize the sovereignty of the United States over the Virgin Islands. The proposed Virgin Islands Constitution does not explicitly mention sovereignty. United States sovereignty over the Virgin Islands is implied from its unincorporated territorial status. We believe, however, that an express statement of sovereignty is preferable to an implication.

The second amendment we recommend would make a number of additional provisions of the United States Constitution expressly applicable to the Virgin Islands. They are:

(1) article I, section 10, clauses 1 and 3;

(2) article IV, section 2, clause 2;

(3) article VI, clause 2, Provided, That in the Virgin Islands the provisions of the Constitution, treaties and laws of the

United States applicable to the Virgin Islands shall be the supreme law of the land;

(4) article VI, clause 3;

(5) the first sentence of section 1 of the fourteenth amendment; and

(6) the twenty-sixth amendment.

The substance of these provisions of the United States Constitution are attached to my written statement (attachment numbered 2).

The third amendment we recommend would make the supremacy clause contained in our amendment to section 3 of the Revised Organic Act explicitly applicable to the legislative power of the legislature of the Virgin Islands. While the supremacy of the Constitution, treaties and laws of the United States would be implied from the unincorporated territorial status of the Virgin Islands, we prefer an explicit statement of the principle.

The fourth amendment we recommend would give exclusive jurisdiction to the district court of the Virgin Islands over all judicial proceedings in the Virgin Islands involving income tax laws applicable to the Virgin

Islands, except those enacted by the legislature of the Virgin Islands. By virtue of Congressional enactment, the income tax laws of the United States are applicable to the Virgin Islands. In order to insure that decisions in the Virgin Islands are consistent with other Federal income tax decisions, we believe that the Federal court should have exclusive jursidiction where federally enacted tax laws are involved. Our amendment contains an exception to this exclusive jurisdiction for locally enacted income tax laws.

The remaining amendments in attachment numbered 1 are technical in nature.

SECTION 204 VIEWS

Section 204 would authorize grants to the Virgin Islands, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Trust Teritory to offset reductions in or termination of Federal grant programs applicable to such areas in fiscal year 1981. Section 204 would also authorize grants to the Virgin Islands, Guam, and American Samoa to reimburse such areas for revenue reductions sustained because of general Federal tax revisions or reductions.

The Administration strongly opposes section 204. There are several reasons for this opposition. First, the language is open-ended as to time. Second, while we have some preliminary estimates, they are in a state of flux and will be until the end of the fiscal year. With Puerto Rico included, the authorization could run into the hundreds of millions of dollars a year. Third, equity requires that the territories shoulder their fair share of the economic recovery grant and tax reductions that are also affecting the 50 states and their local governments. Only the end of the year will tell exactly where the territories are vis-a-vis the states and their local governments. Fourth, section 204 would send the wrong signal to the territories, raising their expectations, even though there may be no appropriation to back up the authorization.

We at Interior are deeply concerned with the difficult fiscal situation facing the territories, but we do not believe that the solution is to cover, in advance, from the Federal Treasury, arbitrary estimates of the effect of grant and tax reductions. Rather, we would expect the territories, like the states, to make adjustments in grant and tax administration. When the actual revenue picture becomes clear, we will encourage a review of the situation within the Administration.

We thank you for the opportunity to express our views on S. 1674.

Attachment #1

Recommended Amendments
To S. 1674

(The Administration will support Title I of S. 1674 if the Title includes amendments 1 through 4 below)

1. On page 2, in line 6, insert after the term "unincorporated territory" the words "under the sovereignty".

2. Delete the language beginning on page 2 in line 18 and ending on page 31 in line 5, and insert in lieu thereof the following provision:

"Sec. 3. To the extent that they are not applicable of their own force, the following provisions of and amendments to the Constitution of the United States are applicable to the Virgin Islands and shall have the same force and effect there as in the United States or in any State of the United States: article I, section 9, clauses 2 and 3; article 1, section 10, clauses 1 and 3; article IV, section 1 and section 2, clauses 1 and 2; article VI, clause 2, Provided, That in the Virgin Islands the provisions of the Constitution, treaties and laws of the United States applicable to the Virgin Islands shall be the supreme law of the land; article VI, clause 3; the first to ninth amendments inclusive; the thirteenth amendment; section 1 of the fourteenth amendment; and the fifteenth, nineteenth and twentysixth amendments: Provided, That all criminal prosecutions arising under local law shall continue to be had by information as heretofore, except such as may be required by local law to be had by indictment by grand jury.".

3. On page 3, in line 10, delete the word "rightful", and in line 11, delete the punctuation and insert in lieu thereof the following language "not inconsistent with the supreme law of the land applicable to the Virgin Islands, as defined in section 3 of this Act, as amended."

4. On page 4, in line 25, insert after the period the following language:

> The District Court of the Virgin Islands shall have exclusive jurisdiction over all judicial proceedings in the Virgin Islands, both criminal and civil, regardless of the degree of the offense or of the amount involved, with respect to the income tax laws applicable to the Virgin Islands, except those enacted by the legislature of the Virgin Islands.

(The Administration recommends that S. 1674 include the following technical amendments)

5. On page 6, delete lines 4 and 5 an insert in lieu thereof the following language:

> (b) Subsection (a) of section 336 of the Act of November 6, 1978 (Pub. L. No. 95-598, 92 Stat. 2680) is repealed, and the designation "(b)" in subsection (b) of section 336 is deleted.

6. On page 15, in line 1, delete "May 2" and insert in lieu thereof "May 20".

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Attachment #2

Provisions of the United States Constitution

(1) Article I, section 10

clause 1: No state shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or law impairing the Obligation of Contracts, or grant any Title of Nobility.

clause 3: No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

(2) Article IV, section 2

clause 2: A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

(3) Article VI

clause 2: This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound

thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

(4) Article VI

clause 3: The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

(5) Amendment 14, section 1

First sentence: Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

(6) Amendment 26: Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2. The Congress shall have the power to enforce this article by appropriate legislation.

Senator WEICKER. I suppose my first question to you would be this matter of budget cuts and tax cuts as they apply to the territories. I wonder whether or not the territorial governments have the same flexibility and/or the administrative sophistication which the States have and if they have the economic base which the States have.

It seems to me it is a rather dicey way to approach the economic well-being of the territories to "see what happens." I think they are in a far more difficult situation as far as the economy is concerned and certainly a more difficult situation insofar as enacting corrective measures to take care of problems which would arise due to these budget and tax cuts.

State legislatures can meet at a minute's notice. Congress can meet at a minute's notice. There is that very close relationship that enables things to get done. The time lag can be particularly painful.

As far as the territories are concerned, that situation is magnified 100 fold by virtue of their relationship with this Government and by the virtue of their abilities, governmentally and economically, to resolve their problems. That is why the provisions are there.

What are the levels of program cuts from 1981 base levels and revenue losses attributable to Federal tax legislation for 1982, 1983, and 1984 including the latest budget cuts?

Ms. MORALES. We do have figures for estimated reductions in 1982. We do not have figures for the subsequent years. I would like to stress that these are estimates. The program reductions are still in a state of flux. Not all decisions have been made.

For the Virgin Islands, they estimate $12.6 million reduction in programs. Guam, $10 million. American Samoa, $5.5 million. The Northern Mariana Islands, $4 million and the trust territory, $6.9 million.

For the territories, the total is $39 million. If we add in Puerto Rico, for which we do not have complete figures, we know that the first estimates for the two major programs are in the area of $400 to $450 million.

In the area of tax losses, the Virgin Islands estimate is $14.1 million. Guam, $9.4 million. American Samoa, $.3 million, for a total of $23.8 million.

Senator WEICKER. According to estimates from the administration for fiscal year 1980, Federal transfer payments including the mirror tax account for between 77 percent of the total governmental revenues available to the Virgin Islands to 92 percent for American Samoa. With that level of dependence how do you expect the territories to support these cuts and provide essential governmental services?

Ms. MORALES. The territories, especially Guam and the Virgin Islands and American Samoa do have options available to them. The important point is that the money is not leaving the territories, the fact that the tax rate is being reduced means the money remains in the territories.

The governments do have the option of counteracting the loss, the estimated loss or even later when the actual loss occurs, by enacting a 10 percent income tax surcharge in Guam and the

Virgin Islands and the American Samoa has no limit to the amount of surcharge they can impose.

Senator WEICKER. A retroactive tax?

Ms. MORALES. Yes, sir. That is only one option. Each territory also has the option of intensifying tax collection. Guam has begun to intensify this effort in recent years and its tax revenue and collection has increased.

The Virgin Islands has separated the internal revenue as a separate department. They are now in the process of intensifying that effort and they should gain more funds through that.

We also have income growth and bracket creep from inflation. There are many variables. For that very reason, the fact there are variables, it is difficult for us to say at this time what the actual effect will be on the economy of the territories and Government revenue.

Senator WEICKER. It is my understanding at the time the administration's program was being contemplated that letters went out to the territories requesting their evaluation as to what the impact of these cuts would be, rather than the administration knowing what the impact would be before the economics were devised. It is sort of an ass backward approach, isn't it?

Ms. MORALES. In the discussion of grants, many of the territories are more self governing, and they go directly to departments and agencies for grants. There are hundreds of grants available. As a recipient they are in the best position to give us this information.

Even they do not have complete information. It takes both the territories and our office to properly gather the information.

Senator WEICKER. Did you have the program cuts and revenue loss figures during the appropriations hearings on the fiscal year 1982 budget?

Ms. MORALES. No, sir, we did not have them then. The actual tax cuts and program cuts had not been enacted at that time. We only had very rough estimates from the territories. As we have gone along, these estimates have continued to change. The figures have been more refined from the rough estimates but still are in a state of flux.

They do not know what the net result of their program losses are because not all decisions have not been made within the agency.

Senator WEICKER. There is not a great deal of time for me to editorially comment on the system used. I just want to say it is highly inadequate. It is not good fiscal practice governmentally.

I might add that I sit on the Appropriations Committee in addition to my position on this committee. I sat on the Finance Committee for the State House of Representatives in Connecticut. I had my own board of taxation when mayor of a town and I just do not understand this. This is just the worst type of practice and it is just devastating.

We are talking about human lives and that bothers me. You have the responsibility to lead the Government. Regardless of what the theories and philosophies the administration adopts, you certainly should have a very precise answer as to what the impact is going to be relative to your policies and decisions. If you do not have those answers, how are the Virgin Islands and the American Samoa supposed to?

I realize this is not your doing. I think it is very unfair and a bad example of fiscal leadership and procedure to come at this situation in this manner for the territories.

Ms. MORALES. Mr. Chairman, I cannot agree with you more. This is a system of information that I have inherited. I would like to say that our emphasis and our concern is the same as yours.

We have established a full-time staff position devoted to the coordination of Federal programs. We have to know at all times what Federal programs are available to the territories, what programs are in the territories, and what the impact of cuts will be on the territories. That information is not available at this time either in the territories or in our office.

Senator WEICKER. On the matter of the flexibility under section 204 which would allow the Appropriations Committee to meet any needs, believe me, the administration is going to lose on that one as it comes out of this committee. I am going to see that flexibility does exist so at least we can minimize any damages which occur.

I would not mind the administration objecting to that provision if indeed it had a better and sounder plan. If we are all going to be wandering around here, it seems to me there had better be some sort of a catchall policy which can prevent the most serious damage occurring.

I again want to repeat that I am not sure one person at Interior is adequate. When you think about what is involved it seems to me more than one is in order.

Ms. MORALES. It is true. He will have to coordinate with everyone and getting on top of all the Federal grant programs is indeed a task and it will be a challenge to him. We hope to have something concrete in the next 3 months.

Senator WEICKER. When do you think you can give this committee the specifics as far as the administration is concerned as to the impact or effect of the budget cuts upon the territories?

Ms. MORALES. Rather than commit to an arbitrary date, I would like to go back and examine this and provide it for you later.

Senator WEICKER. What do you estimate the timeframe to be?

Ms. MORALES. A week to give you information as to when. The problem is getting information from the territories. It does require a bit of time.

[Subsequent to the hearing Ms. Morales supplied the following:]

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

NOV 18 1981

The Honorable Lowell P. Weicker, Jr.
United States Senate
Washington, D.C. 20510

Dear Senator Weicker:

During the October 21, 1981, hearing on S. 1674, you asked that we provide "the specifics . . . as to the impact or effect of the budget cuts upon the territories."

To begin with, we would like to clear up a misunderstanding regarding the Department's willingness and ability to provide the Committee with estimates of the effect of budget and tax cuts on the territories. We were not only ready and willing to provide such information, but we did so at the beginning of the hearing. For the record, the amounts of the cuts for fiscal year 1982, by territory, as presented to the Committee on October 21, 1981, were as follows:

Federal Program cuts:	Virgin Islands	$12.6 million
	Guam	10.0 million
	American Samoa	5.5 million
	Northern Marianas	4.0 million
	Trust Territory	6.9 million
	TOTAL	39.0 million
Income tax cuts:	Virgin Islands	$14.1 million
	Guam	9.4 million
	American Samoa	.3 million
	TOTAL	$23.8 million

Following the submission of the above estimates, candor compelled us to add several caveats regarding the reliability and probable revision of the data. Unfortunately, these caveats were apparently taken by you and by territorial representatives in attendance as signs of our inability to supply any data. In fact, most of the territorial representatives subsequently provided substantially the same figures in their own testimony.

The above figures were supplied to us by the territories. We note that the Department of the Treasury has prepared income tax estimates which vary slightly from the territories' estimates. The Treasury's estimates were $12 million for the Virgin Islands, $9 million for Guam, and $.3 million for American Samoa.

We consider the effect of cuts in Federal programs and taxes in the territories to be of great importance and deserving of our continued attention. Therefore, we would like to outline our present and proposed approach to each issue (grants and taxes) separately.

Federal Grant Programs

Grants from Federal agencies are provided to the territories in exactly the same way as they are provided to the 50 states and the District of Columbia. They are not channeled through the Department of the Interior or any other central coordinating office. We do, of course, take a very special interest in grant programs for territories, and we maintain regular contact with the grant administration offices of all the Federal agencies that deal with the territories. Unfortunately, these offices are able to provide us with no more information than they provide the states and the territories. Initial estimates were guesses based on the first continuing resolution. These estimates are in fact the source of the data provided above.

The final effect of the budget cuts on each territory and state will not be known until well after the passage of departmental and agency appropriations bills and probably not until the close of the fiscal year. We are continuing our direct effort to obtain from the larger agencies the best and latest information on the effect of grant reductions in the territories. In addition, on October 13, 1981, (before the hearing), we again requested the territorial governments to provide us with their latest estimates on the extent and effect of the prospective cuts. By combining these sources of information, we expect, by the end of January 1982, to have and to provide to the Committee more up-to-date estimates of the effect on the territories of grant reductions. We emphasize that this does not mean the figures will be final at that time. We expect to continually revise them throughout the year.

With regard to our view of the role of the Federal government in limiting the impact of reductions in Federal grants on the territories, we are guided by two major principles: First, reductions in the Federal budget are necessary and will benefit all Americans by controlling inflation. Therefore, we would expect all Americans, including residents of the territories, to share in the sacrifices that these reductions will entail. Second, we are aware that the territories have more fragile economies and are more dependent on Federal grants than are the states. Thus, we consider it likely that some, although not all, grant reductions will have a disproportionately greater effect on the territorial governments and economies. We expect the territorial governments to identify these critical program cuts and we will help them to seek ways of

alleviating the effects. When adequate information on the actual effect of grant reductions becomes available, we will promptly review the situation.

Federal income tax cuts

The reductions in Federal income tax rates will have a negative effect on the revenues of those three territories that use the Federal income tax as a local tax: Guam, the Virgin Islands, and American Samoa. The effect of these income tax reductions on the territories is totally different from the effect of Federal program grant reductions for the following reasons:

1) The taxes are collected by territorial governments from territorial residents. Thus, any reduction in tax rates or collections does not reduce Federal transfers to the territories. The result is, in fact, a reduction in transfers from the territorial private sector to the territorial public sector.

2) Tax reductions are not, in their entirety, real reductions in resource transfers but are, to a large extent, offsets to real increases in taxation resulting from the effect of inflation when it moves taxpayers to higher tax brackets ("bracket creep"). Treasury Department calculations indicate that the Economic Recovery Tax Act will bring about no significant reduction in effective tax rates for most taxpayers until mid-1983. Even then, the inflation rate will determine whether or not there is a real tax reduction. The higher the inflation rate, of course, the less chance of a real tax reduction.

3) Territorial governments have legal authority to offset decreases in income tax revenues by imposing a surcharge. It is true that this authority, in Guam and the Virgin Islands, is limited to a 10% surcharge. Under most assumptions regarding inflation, however, a 10% surcharge will be more than enough to offset the real reduction in income tax rates to take effect through 1983. Furthermore, all territories exercise complete control over most other taxes on their residents (an advantage not shared by any state) and can, by local legislation, adjust or impose taxes (e.g. property, excise, death, gift, gasoline) to achieve a desired balance between government revenue and fiscal incentives.

The prospective revenue losses from income tax rate reductions do share one characteristic with losses from Federal grant reductions; they are impossible to quantify accurately until after the close of the fiscal year. Because changes in tax rates affect each taxpayer differently and because each taxpayer's return changes from year to year, there is no way of telling in advance with any degree of accuracy what the aggregate effect will be. Reliable figures will not be known, in fact, until several years hence when final returns have been filed, audits have been completed, and appeals have been exhausted.

Compounding this problem is the fact that the Economic Recovery Tax Act will probably affect corporate taxes to a greater extent than individual taxes in the territories. American Samoa and the Virgin Islands are heavily dependent on corporate taxes that are paid by only two or three companies. Meaningful projections of the effect of tax law changes on these companies require access to information not available even to territorial officials.

The above is not to say that improved estimates cannot be made during this year. Even for these estimates, however, recent base data must be available. We have requested Guam, the Virgin Islands, and American Samoa to provide revised estimates of income tax reductions and the base data and assumptions used to calculate them. If we are able to obtain this information from the territorial governments in a timely fashion, we will, by the end of January 1982, provide it to the Committee along with our own analyses and projections of the effects of the reductions on revenues.

In closing we would like to emphasize two points. First, we in Interior are well aware of the special needs of the territories and of our responsibility to interpret, support, and present these needs to the Executive Branch and the Congress. Second, we endorse the 20-year process advocated by this Administration and previous administrations and by the Congress to encourage self-government and economic self-sufficiency for the territories. We believe the territories have made good progress in the last few years in reducing dependence on the public sector and encouraging private sector growth, and we propose to build on that progress.

Sincerely,

Diane K. Morales

Diane K. Morales
Deputy Assistant Secretary for
Territorial & International Affairs

cc: The Honorable James A. McClure
Chairman, Committee on Energy and
Natural Resources
United States Senate

Senator WEICKER. To me this is sufficiently important that it be tended to within the next several weeks. I fully expect as far as the 1983 budget is concerned to have these matters in hand before the consideration of those budgets.

Ms. MORALES. Mr. Chairman, this is not to take effect until 1983 as I understand it. We do feel that an authorization at this time does send out the wrong signal.

Our concern is truly as great as yours. We have said we will review the effect again and open this question up for 1983 based on actual figures, not estimates.

We would feel more comfortable knowing that all available options have been exercised, that we know indeed what the true effect is and then counter those effects. I think it is premature to enact section 204 at this point since the territories' grant and revenue pictures are not yet clear.

Senator WEICKER. I think it is the wrong signal to send out to any government that you go ahead and engage in a series of cuts without understanding the impact of those cuts. If my friends in the Virgin Islands and the American Samoa and Guam and the rest conducted government in that fashion, it will be a real mess.

That to me is the signal being sent out by this procedure used by this administration. I think you would be on sounder ground and would have come in here with cleaner hands if you had your act in order. You are saying you do not have your act in order but you expect them to get their act in order and I do not know how they can do it. I think that is the wrong signal.

I can assure you that I am going to make certain there is at least a degree of flexibility and fairness. The administration is entitled to have its policies and philosophies put into place but not at the cost of hundreds of lives.

If this were an academic debate I could suffer this kind of incompetence on the part of the administration. This is not an academic debate. This is flesh and blood. I am sure you wish for the best as far as the residents of the territories are concerned, but that is not the way this is going to end up.

I would appreciate those figures at the earliest possible time. In the meantime this committee will proceed to try to give some flexibility to appropriations in case there are areas which are particularly affected.

I repeat, Ms. Morales, it is too early in the morning to be disagreeable with anybody and my anger is not directed at you. You are very articulate and a very lovely person. As you say, you have just come into this situation and the history of it is not your responsibility.

Hopefully, through you I have sent a signal to the administration. Thank you very much.

Why don't we hear from Mr. Marcuse on the constitutional aspects of this. Mr. Marcuse, please proceed.

STATEMENT OF HERMAN MARCUSE, ATTORNEY, OFFICE OF LEGAL COUNSEL, DEPARTMENT OF JUSTICE

Mr. MARCUSE. Mr. Chairman, my name is Herman Marcuse. I am an attorney in the Office of Legal Counsel in the Department of

Justice. I am pleased to testify on S. 1674, 97th Congress, first session.

At your request I will merely enumerate the issues discussed in our statement.

The Department of Justice addresses itself principally to five issues. First, whether the bill should expressly refer to the sovereignty of the United States and the supremacy of its laws; second, whether certain additional provisions of the Constitution of the United States should be made applicable to the Virgin Islands as if they were one of several States; third, whether and to what extent grand juries may be utilized in the Virgin Islands for the prosecution of Federal crimes; fourth, whether the Federal district court should have exclusive jurisdiction over income tax matters; fifth, the composition of the interim court of appeals.

In our view the proposed legislation should refer expressly to the sovereignty of the United States. In the eyes of many, the establishment of a government pursuant to a constitution of its own adoption carries with it an implication of sovereignty. It is desirable to negate that implication expressly. The bill should therefore refer expressly to the sovereignty of the United States.

If the supremacy issue is dealt with exclusively in the constitution of the Virgin Islands as a limitation on the powers of their legislature, it remains a question of local law and is outside the jurisdiction of the Federal court. We feel that the Federal court should have the power to determine the question of the supremacy laws of the United States.

Certain additional provisions of the Constitution of the United States should be made available to the Virgin Islands as if they were a State. The Virgin Islands can no longer be considered a mere political subdivision of the United States. As a result of the legislation of the past 15 years, the Federal Government has lost much of its control over them. As a matter of fact the status of the Virgin Islands is in many respects that similar to a State.

We believe they should be made subject to the prohibitions of article I, section 10, clauses 1 and 3 of the U.S. Constitution; that the requirements of interstate rendition and the oath of office should apply to them; and that the right to vote for 18-year-old citizens should be enforceable, in the Virgin Islands, as a matter of Federal law and not merely local law.

We also feel the first sentence of the 14th amendment should be made available to the Virgin Islands placing the citizenship of persons born in the Virgin Islands on a constitutional rather than statutory basis. We realize this proposal raises sensitive issues since it would defeat any attempt by the Virgin Islands to test the constitutionality of the provision in their constitution pursuant to which a person born outside the Virgin Islands becomes a citizen only after he has been domiciled therein for 1 year. In our view that provision is unconstitutional under existing law. The extremely small chance that the 1-year residence provision would be upheld by the Federal courts therefore should not stand in the way of placing the citizenship of persons born in the Virgin Islands on a constitutional and therefore a permanent basis.

In connection with the introduction of the grand jury in the Virgin Islands for investigation and prosecution of Federal crimes,

we are confronted with a dilemma. On one hand it would be helpful. The Federal grand juries could be used to obtain sworn testimony for the investigation and prosecution of Federal crimes. On the other hand it may at times be difficult to obtain indictments in closely knit small island communities. We therefore have some reservations of making prosecution by indictment mandatory in the Virgin Islands. My prepared statement contains a proposal of making the use of grand juries in the Virgin Islands optional at the discretion of the prosecution.

We strongly recommend an addition to section 22(a) of the Revised Organic Act, section 107(a) of the bill, of a provision which would give the district court of the Virgin Islands exclusive jurisdiction over civil and criminal cases involving income tax laws applicable to the Virgin Islands. The reason is the income tax laws of the Virgin Islands are identical with the Internal Revenue Code. Hence Federal jurisdiction is necessary to insure uniformity of interpretation of example estates.

With respect to the interim appellate court, we prefer section 109 of the bill over the provisions in the Virgin Islands constitution. Section 109 follows the precedent established for Guam and the Northern Marianas. The Virgin Islands constitution would establish a court consisting of two Federal judges presided over by a judge appointed by the Governor of the Virgin Islands. We consider this inconsistent with the dignity of the Federal judiciary. I have been advised informally that some members of the judicial branch share that view and will be communicating it to your committee.

I would like to dispel some misunderstandings that have arisen as a result of section 112 of your bill which repeals the last two sentences of section 27, Revised Organic Act relating to the interim appointment of the U.S. attorney. The repeal is based on the consideration that section 27 duplicates 28 U.S.C., section 546, which has been made applicable to the Virgin Islands in the opening sentence of section 27.

Senator WEICKER. Thank you, Mr. Marcuse.

I understand the words "unincorporated territory" as used in the Revised Organic Act for the Virgin Islands is an explicit statement of the sovereignty of the United States over the area acquired from Denmark and makes the area subject to the plenary authority of Congress under article 4, the supremacy of Federal law and the sovereignty of the United States.

Is this true and if so, why is it necessary to restate sovereignty and the supremacy of Federal law?

Mr. MARCUSE. I think the reason is section 101 of the bill would add to section 2 of the Revised Organic Act the clause that the people of the territory have organized their government pursuant to a constitution of their own adoption. That clause to some extent is inconsistent with the concept of an unincorporated territory.

We think it should be made clear that the territory is subject to the sovereignty of the United States. Section 101 might say how organized their local self-government is. In that event you might not have that potential contradiction in section 2.

Senator WEICKER. Both the administration and the Virgin Islands are proposing changes in the application or effect of provisions of the U.S. Constitution to the Virgin Islands. The Virgin

Islands has a status commission to review Federal relations and the administration has stated a willingness to discuss changes in the Federal relations with them.

Why shouldn't this matter be left to that forum?

Mr. MARCUSE. There already has been a change in the status of the Virgin Islands. The Governor of the Virgin Islands is no longer appointed by the President. The President can no longer direct the Governor to veto laws of the Virgin Islands which for instance are in conflict with article 1, section 10, clauses 1 and 3 of the Constitution.

[The prepared statement of Mr. Marcuse follows:]

Department of Justice

STATEMENT

OF

HERMAN MARCUSE
ATTORNEY
OFFICE OF LEGAL COUNSEL

BEFORE

THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

CONCERNING

S. 1674 - TO AMEND OR REPEAL CERTAIN PROVISIONS OF THE ORGANIC ACTS APPLICABLE TO THE VIRGIN ISLANDS, AND FOR OTHER PURPOSES

ON

OCTOBER 21, 1981

Mr. Chairman:

My name is Herman Marcuse. I am an attorney in the Office of Legal Counsel in the Department of Justice. I am pleased to testify on S. 1674, 97th Cong. 1st Sess., to amend and repeal certain provisions of the organic acts applicable to the Virgin Islands, and for other purposes.

The background and purpose of the bill are briefly as follows: Public Law 94-584 authorized the legislature of the Virgin Islands to call a constitutional convention to draft a constitution for the local self government of the people of the Virgin Islands. On the basis of this enabling act the legislature called a constitutional convention which drafted a constitution. Public Law 97-21 approved that constitution for submission to the people of the Virgin Islands in a referendum, as provided in the enabling act. The referendum is scheduled for November 3rd, 1981. If the constitution is approved by the voters of the Virgin Islands, it will go into effect according to its terms on the 120th day following that approval. Many aspects of local self-government in the Virgin Islands, however, are now included in the organic acts for the Virgin Islands. Hence, before the constitution

for the Virgin Islands can be fully effective it will become necessary to repeal those provisions of federal law, especially those contained in the organic acts, which cover the topics of local self-government included in that constitution.

This task is complicated by the circumstance that there are three principal statutes which deal with matters involving the local government of the Virgin Islands. They are the act of March 3, 1917, enacted shortly after the acquisition of the Virgin Islands from Denmark, the Organic Act of the Virgin Islands of 1936, and the Revised Organic Act of the Virgin Islands of 1954. Neither of these acts expressly repealed its predecessor or predecessors. The confusion is made graphic by the circumstance that has become necessary to assign to the Virgin Islands two chapters, chapters 7 and 12, in title 48 of the United States Code.

The Department of Justice intends to address itself principally to five issues: First, whether the bill should expressly refer to the sovereignty of the United States and the supremacy of its laws over the Virgin Islands. Second, whether certain additional provisions of the Constitution of the United States should be made applicable to the Virgin

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Islands as if they were one of the several States. Third, whether grand juries may be utilized in the Virgin Islands for the prosecution of federal crimes. Fourth, whether the federal district court should have exclusive jurisdiction over judicial proceedings relating to the federal income tax laws applicable to the Virgin Islands. Fifth, the question of the composition of the interim appellate court.

The Enabling Act, Public Law 94-584, provides that the constitution of the Virgin Islands shall recognize and be consistent with the sovereignty of the United States over the Virgin Islands. The constitution which was drafted does not, however, expressly recognize the sovereignty of the United States. Former President Carter's message of October 25, 1980 transmitting the constitution to the Congress took the position that the constitution implicitly recognizes the sovereignty of the United States over the Virgin Islands. The Department of Justice, however, feels strongly that a point as crucial as the sovereignty of the United States over the Virgin Islands should be stated expressly and that it may not be left to implication. This is particularly true in light of the view held by some, including apparently a recent decision of the U.S. District Court for the District

of Hawaii in Kinoj v. United States, Civ. No. 80-0403, that the organization of a government pursuant to a constitution of a region's own adoption implies that the region is sovereign. In view of these conflicting presumptions and implications, and of the recital of the bill that the people of the Virgin Islands have organized their government pursuant to a constitution of their own adoption, we consider it imperative that the Virgin Islands be described in Sec. 2 of the Revised Organic Act as an "unincorporated territory under the sovereignty of the United States."

The Enabling Act also requires that the constitution of the Virgin Islands shall recognize the supremacy of the laws of the United States. The constitution, as originally enacted, did not contain such provision. While former President Carter's message indicated that such supremacy was implied, the constitutional convention, at the urging of Congress, amended the last sentence of Article V, § 1 of the constitution to read "to the extent not inconsistent with the Constitution and laws of the United States, this constitution and the laws of the Virgin Islands enacted under it shall be the supreme law of the Virgin Islands." This clause was incorporated in the constitution by Public Law 97-21 which, as stated above, approved the constitution for submission to

the people of the Virgin Islands. This clause acknowledges the supremacy of federal law in a rather awkward and indirect manner. More serious is the consideration that if Article V, § 1 of the Virgin Island constitution is left standing by itself, then federal supremacy remains a question of local law, to be decided in the local courts. On the other hand, if the Federal Organic Act provides for the supremacy of Federal laws, the Federal courts will have jurisdiction in cases involving the issue whether a law of the Virgin Islands is in conflict with federal law.

We therefore urge that § 3 of the Revised Organic Act (§ 102 of the bill) be amended by including in the list of the provisions of the Constitution of the United States applicable to the Virgin Islands the following:

> "Article VI, clause 2, Provided, that in the Virgin Islands the provisions of the Constitution, treaties and laws of the United States applicable to the Virgin Islands shall be the supreme law of the land".

This amendment would be implemented by the following amendment to § 8(a) of the Revised Organic Act (§ 103 of the bill):

"The legislative authority and power of the Virgin Islands shall extend to all subjects of legislation not inconsistent with the supreme law of the Virgin Islands as defined in section 3 of this Act, as amended."

When we discussed this problem with our friends on the Virgin Islands Constitutional Convention, they suggested the inclusion at the end of this subsection of the words "and the constitution of the Virgin Islands." We feel that this reference to the constitution of the Virgin Islands is inappropriate in the Federal Organic Act. More important, however, is the consideration that if the Revised Organic Act requires that the laws of the Virgin Island's be consistent with the constitution of the Virgin Islands, that consistency becomes a federal question which is reviewable in the federal courts. The question whether a law of the Virgin Islands which presents no conflict with the Constitution or statutes of the United States conforms with the constitution of the Virgin Islands, is an issue to be determined by the courts of the Virgin Islands, and is of no concern to the federal courts.

I wish to point out that sections 101 and 102 of the Covenant with the Northern Mariana Islands (48 U.S.C. § 1681, note) expressly recognize the sovereignty of the United States over the Northern Mariana Islands and the supremacy of its laws over them.

In addition to this reference to Article VI, clause 2, we strongly urge the addition of the following constitutional provisions to § 3 of the Revised Organic Act (§ 102 of S. 1674) which contains the provisions of the United States Constitution which are applicable to the Virgin Islands as if they were a State: Article I, § 10, clauses 1 and 3; Article IV, § 2, clause 2; Article VI, clause 3, the first sentence of § 1 of the Fourteenth Amendment, and the Twenty-sixth Amendment.

In proposing these amendments we are prompted by the following considerations. Originally, the territories were merely political subdivisions of the United States. Their governors were appointed and removable by the President, they had no constitution, their laws, including those relating to self-government, were enacted by Congress, and Congress had the power, although rarely exercised, to repeal the laws enacted by the territorial legislatures. This strong federal control over the activities of the territories has decreased drastically. If the constitution is adopted, the Virgin Islands will in many respects have a status very similar to that of a State. We therefore believe that the Virgin Islands should be subject to some of the constitutional prohibitions to which States are subject and share some of their responsibilities. For that reason the Department of Justice strongly urges, for the

reasons set forth below, that the above listed provisions of the United States Constitution be included in § 3 of the Revised Organic Act, and thus be made applicable to the Virgin Island as if they were a State. It should be noted that these provisions of the Constitution of the United States are also applicable to the Northern Mariana Islands. Covenant with the Northern Mariana Islands § 501, 48 U.S.C. § 1681, note.

1. According to Article I, section 10, clauses 1 and 3:

> No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.
>
> No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

The express inclusion of these provisions in § 3 should help to avoid some problems similar to those which have arisen in connection with the Commonwealth of Puerto Rico, in particular its attempts to enter into relations with certain Caribbean States and organizations. We did not include cl. 2 of § 10 because the Virgin Islands are not within the customs territory of the United States.

2. Article IV, § 2, clause 2 refers to interstate rendition. We believe that the Virgin Islands should be subject to the obligations of that clause as if they were a State.

3. Article VI, clause 3 deals with the oath of office. Unless this provision is included in § 3 of the Revised Organic Act, it will be necessary to add to § 29 of the Revised Organic Act (§ 113 of S. 1674) a subsection dealing with the oath of office to be taken by the officers and members of the legislature of the Virgin Islands.

4. The Twenty-sixth Amendment gives the right to vote persons who are eighteen years of age or older. This amendment was adopted subsequent to the enactment of the last paragraph of what is now § 3 of the Revised Organic act of the Virgin Islands. The Virgin Islands constitution contains an analogous provision. This, however, does not obviate the inclusion of the Twenty-sixth amendment in § 3, since it is the purpose of that section to protect the constitutional rights enumerated in it as a matter of federal law.

5. Section 3 now makes applicable to the Virgin Islands the second sentence of the first section Fourteenth Amendment to the Constitution of the United States which contains the Privileges and Immunities, the Due Process, and the Equal Protection Clauses. Section 3, however, does not include the first sentence of the section. Pursuant to that sentence all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. We urge the inclusion of the entire first section of the Fourteenth Amendment in Section 3. This would put the citizenship of persons born in the Virgin Islands on a constitutional, and therefore permanent, foundation rather than on the statutory basis of § 306 of the Immigration and Naturality Act (8 U.S.C. § 1406), which can be repealed by Congress. It will be remembered that in 1977 the applicability of that act to the Territories came very close to being repealed, or at least, suspended. See § 403 of Public Law 95-134, as amended by Public Law 95-135. On the other hand, it has been held in Rassmussen v. United States, 197 U.S. 516, 526 (1905) that once a provision of the Constitution of the United States has been introduced into a Territory, Congress cannot later withdraw it.

The inclusion of the first sentence of the first section of the Fourteenth Amendment in § 3, however, raises a sensitive issue. According to Article III, § 2(b) of the constitution of the Virgin Islands, persons born outside the Virgin Islands become citizens of the Virgin Islands only after they have become domiciled in the Virgin Islands for at least one year. The Department of Justice has taken the position that this provision is unconstitutional, since the Supreme Court held in the Slaughterhouse Cases, 16 Wall. (83 U.S.) 36, 80 and 85 (1873) that the right of a citizen of the United States to become a citizen of a state immediately upon acquiring residence therein is one of the privileges and immunities of a citizen of the United States. The privileges and immunities clause of the Fourteenth Amendment, however, has been incorporated in § 3 of the Revised Organic Act since 1968. The message of former President Carter referred to above recommended that the one year residence requirement be deleted.

The representatives of the Virgin Islands apparently would like to submit the question of the constitutionality of the one year residence requirement to the courts. If § 3 of the Organic Act were amended, as proposed by us, so as to include expressly the provision that a citizen of the United States is a citizen of the State in which he resides, such litigation could not possibly succeed. In our view the Slaughterhouse case will lead to the same result. The

minimal chance that the courts would uphold the constitutionality of the one year residence requirement of the Virgin Islands constitution therefore should not stand in the way of making the entire first section of the Fourteenth Amendment applicable to the Virgin Islands. This would place the United States citizenship of the persons born in the Virgin Islands on a constitutional, and, as explained above, permanent basis.

Section 102 contains an amendment of the proviso in § 3. which has the effect of limiting the introduction into the Virgin Islands of the grand jury provisions of the Fifth Amendment to the Constitution of the United States. The proviso now reads "all offenses shall continue to be prosecuted in the district court by information as heretofore, except such as may be required by local law to be prosecuted by indictment by grand jury." The bill would amend the proviso to read "all criminal prosecutions arising under local law shall continue to be had by information as heretofore, except such as may be required by local law to be had by indictment by grand jury."

The effect of this Amendment wouuld be two-fold. First it would make grand juries available for the investigation and prosecution of criminal offenses arising under federal law. Thus it would dispose of the problem involved in United

States v. Christian, recently decided by the United States Court of Appeals for the Third Circuit, No. 81-1323. That case held that under §§ 3 and 25 of the Revised Organic Act, as they stand now, and Rule 54(a) of the Federal Rules of Criminal Procedure, the District Court of the Virgin Islands cannot convene a grand jury to investigate possible violations of federal law. On the other hand, the amendment would make the grand jury requirement of the Fifth Amendment fully applicable in the Virgin Islands with respect to prosecutions under federal law. Experience has shown that it may occasionally be difficult to obtain indictments in closely knit small island communities. For that reason we suggest the grand jury proceedings in the Virgin Islands relating to federal criminal offenses be made optional at the discretion of the prosecution.

We therefore propose the following amendments:

1. Section 102. The proviso in section 3 of the Revised Organic Act (p. 3 lines 2 to 5) should read:

> "Provided, however, that no person shall be entitled to presentment or indictment by grand jury and that all offenses may be prosecuted in the district court by information, except that such offenses

arising under local law as may be required to be prosecuted by indictment by grand jury shall be so prosecuted."

2. In order to demonstrate that the provision in § 3 uses the word "may" in the optional (OPTIONAL) rather than the mandatory sense, the proviso in § 24(b) of the Revised Organic Act (§ 110b of the bill should be amended to read as follows:

"Provided, That in the District Court of the Virgin Island, notwithstanding the provisions of Rules 7 and 54(a) of the Federal Rules of Criminal Procedure, all offenses indictable under federal law may, at the discretion of the prosecution, be investigated by a grand jury and prosecuted either by indictment or by information. Offenses under local law shall be prosecuted by information except such as may be required by local law to be prosecuted by indictment by grand jury."

We strongly recommend the addition to § 22(a) of the Revised Organic Act (§ 107(a) of the bill) of a provision which would give to the District Court of the Virgin Island exclusive jurisdiction over all judicial proceedings in the Virgin Islands, both civil and criminal, regardless of the degree of the offense or the amount involved, with respect to the income tax laws applicable to the Virgin Islands, except those enacted by the legislature of the Virgin Islands. While the Virgin Islands income tax has been characterized as a territorial income tax it is nevertheless identical with the federal income tax and based on the text of the Internal Revenue Code (48 U.S.C. § 1397). In the interest of the uniformity of the interpretation of that complex document, it is imperative that its enforcement be exclusively within the jurisdiction of the federal courts. At present the jurisdiction of the federal courts over cases involving the income tax laws applicable to the Virgin Islands appears to be based only on the Virgin Island Code. Dudley v. Commissioner, 258 F.2d 182, 188 (3rd Cir. 1958). Hence it could be withdrawn by the legislature of the Virgin Islands. Section 31 of the Organic Act of Guam vests the enforcement of the Guam territorial income tax exclusively in the federal court. 48 U.S.C. 1421 i (h).

I wish to make a few comments on § 109 of S. 1674 which would add to the Organic Act a new section 23A relating to an interim appellate court. That court would have jurisdiction over appeals from the lower local courts of the Virgin Islands pending the establishment of the appellate court envisaged by Article VII, § 2 of the Virgin Islands constitution. This interim appellate court would be patterned after the appeallate divisions of the district courts of Guam and for the Northern Mariana Islands (48 U.S.C. §§ 1424, 1649b). It would consist of the chief judge of the district court of the Virgin Islands as Presiding Judge, and two other judges, only one of whom may be a judge of a court of the Virgin Islands. Section 23A would differ from the interim appellate court provided for in the § 5 of the Transitional Schedule of the Virgin Islands constitution. That interim appellate court would consist of the two judges of the federal district court for the Virgin Islands and would be presided over by a judge appointed by the Governor of the Virgin Islands. Representatives of the Virgin Islands have explained that this provision was placed in the Transitional Schedule because for financial reasons it might take several years before the constitution appellate court would be established. In the meantime it was felt desirable to put an end to the now existing practice under which the decisions of a single territorial judge are reviewed by a single federal district judge.

The Department of Justice strongly supports § 109 of the bill. It satisfies the principal grievance of the Virgin Islands by providing that appeals from the lower local courts will be reviewed by a panel of three judges. It also follows the pattern existing in two other territories. On the other hand, it avoids the flaw inherent in the transitional schedule of the Virgin Islands constitution pursuant to which two federal judges would serve under a local chief judge. We consider this inconsistent with the dignity of the federal judiciary. We have received informal views to the same effect from several sources within the judicial branch. If the Virgin Islands are dissatisfied with this provision, the remedy is simple. They can establish their constitutional appellate court and thereby terminate the appellate division provided for in the bill.

In concluding our comments on S. 1674, we wish to point to the unusual interdependency of its provisions. If any provision of it should be amended, the greatest care will have to be taken to examine how the amendment affects the rest of the bill, in particular the repeals in §§ 117, 119 and 120. For instance, the repeals of many of the special provisions dealing with the jurisdiction of the district court of the Virgin Islands are based on the amendment to § 22 of the Revised Organic Act by § 107, of the bill pursuant to which the district court will have the full jurisdiction

of a district court of the United States. Again, as shown above, the omission from § 29 of the Organic Act (§ 113 of the bill) of a provision dealing with the oath of office of local officials is contingent on the insertion of Article VI cl. 3 of the Constitution of the United States in § 3 of Revised Organic Act. (Section 102 of the bill).

This ends my prepared text. I shall be happy to answer any questions to the best of my ability.

Senator WEICKER. Thank you, Mr. Marcuse.
Mr. Granwell.

STATEMENT OF ALAN W. GRANWELL, INTERNATIONAL TAX COUNSEL, DEPARTMENT OF THE TREASURY, ACCOMPANIED BY KARLA HOFF, INTERNATIONAL ECONOMIST

Mr. GRANWELL. In line with your request, I will summarize our statement.

Mr. Chairman, it is a pleasure to appear before this committee to discuss the tax and customs issues raised by S. 1674, the Omnibus Territories bill.

I am accompanied by Karla Hoff, an international economist in our Office of Tax Analysis.

My Oral testimony will concentrate on section 204, which would authorize the Secretary of the Interior to make payments to the Virgin Islands, Guam, and American Samoa for the loss in tax revenue due to any general Federal tax revision or reduction.

The administration strongly opposes this provision.

My oral testimony will concentrate on section 204, which would 202 of S. 1674, providing for technical assistance by the Customs and Postal Services. Other issues raised by S. 1674 have been addressed by the Interior and Justice Departments.

The administration has both a policy and an administrative objection to section 204.

Our policy concerns can be summarized as follows: Under current law, which would not be changed by either this bill or the Fourth Constitution of the Virgin Islands, the income tax laws in effect in the Virgin Islands, Guam, and American Samoa generally mirror the U.S. Internal Revenue Code. Any revision in U.S. tax law which reduces U.S. income tax liabilities thus also reduces the taxes owed by territorial residents to their territorial treasuries.

If the territorial governments prefer to maintain their revenues rather than have their taxpayers enjoy reduced tax liabilities, they can offset reductions resulting from changes in the U.S. Internal Revenue Code by increasing their local taxes or imposing an income tax surcharge.

In view of the foregoing, territorial governments will lose revenues as a result of changes in the U.S. Internal Revenue Code only if these governments choose not to offset the changes through

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imposition of an income tax surcharge or other territorial revenue measures.

If Federal funds are appropriated to the territories to offset reductions in U.S. tax rates, the Federal Government would simply be making an additional general appropriation to these territories while allowing territorial taxpayers to enjoy a tax reduction.

In addition, it should be noted that since many State income taxes are tied to the Federal tax base, this bill may cause State claims for grants when changes in Federal income tax laws adversely impact State tax bases.

With respect to our administrative concerns, the amount of revenue foregone by the territorial governments as a result of the general Federal tax revision cannot be determined with any precision.

U.S. tax laws generally contain highly complex and interrelated provisions; determining their effects with respect to the territories would be difficult. An examination of individual returns would not take into account the broader effects of the U.S. tax changes on these territories.

In summary, section 204 is an ill-conceived form of making general appropriations to the territories. While the entire issue of the U.S. territorial tax relationship merits further consideration, its defects cannot be resolved by an open-ended authorization for tax loss reimbursement.

For the aforementioned reasons, the administration recommends that section 204 be deleted from the Omnibus Territories bill.

With respect to section 202 of S. 1674, such provision directs the Customs and Postal Services of the United States to assist the appropriate officials of the Virgin Islands in the collection of local excise taxes. Pursuant to section 603 of Public Law 96–205, the U.S. Customs Service in 1980 concluded an agreement with the Virgin Islands to assist that government on a reimburseable basis in the collection of their excise tax.

The administration believes that the current agreement complies with the assistance required by section 202 of the bill.

As S. 1674 does not specify who should bear the cost of assistance, the administration presumes section 603 of Public Law 96–205 would continue to control this factor, and the cost would thus be borne by the Virgin Islands. In order to avoid possible confusion, the administration recommends that the following sentence be added at the end of section 202. "Such assistance shall be rendered on a reimburseable basis."

Customs annually expends 84 man-years in the Virgin Islands. Should an agreement be reached whereby Customs would perform all functions related to collection of the Virgin Islands excise tax, we estimate that an additional 10 man-years would be required.

This concludes my oral testimony. I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Granwell follows:]

FOR RELEASE UPON DELIVERY
EXPECTED AT 8:30 A.M. EST
WEDNESDAY, OCTOBER 21, 1981

TESTIMONY OF
ALAN W. GRANWELL, INTERNATIONAL TAX COUNSEL,
DEPARTMENT OF THE TREASURY, BEFORE THE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. Chairman and members of this distinguished Committee:

It is a pleasure to appear before this Committee to discuss the tax and customs issues raised by S. 1674, the Omnibus Territories Bill. My testimony will concentrate on section 204, which would authorize the Secretary of the Interior to make payments to the Virgin Islands, Guam, and American Samoa for the loss in tax revenue due to any general Federal tax revision or reduction. The Administration strongly opposes this provision.

My testimony will also include a discussion of section 202 of S. 1674, providing for technical assistance by the Customs and Postal Services. Other issues raised by S. 1674 have been addressed by the Interior and Justice Departments.

Policy Objections to Tax Loss Reimbursement under Section 204

Under current law, which would not be changed by either this bill or the Fourth Constitution of the Virgin Islands, the income tax laws in effect in the Virgin Islands, Guam, and American Samoa generally "mirror" the U.S. Internal Revenue Code. Any revision in U.S. tax law which reduces income tax liabilities in the United States thus also reduces income tax liabilities in these territories. (Taxpayers in these territories generally pay no tax to the Federal government.) However, if these territorial governments prefer to maintain their revenues rather than have their taxpayers enjoy reduced tax liabilities, they can offset reductions resulting from changes in the U.S. Internal Revenue Code by increasing their local taxes. In addition, American Samoa has full authority to make changes in the "mirrored" U.S. income tax laws. In the case of Guam and the Virgin Islands, provisions in P.L. 95-134 and P.L. 94-392 allow these governments to levy income tax surcharges of up to 10 percent.

In view of the foregoing, territorial governments will lose revenues as a result of changes in the U.S. Internal Revenue Code only if those governments choose not to offset the changes through imposition of an income tax surcharge (or other territorial revenue measure). If Federal funds are appropriated to the territories to offset reductions in U.S. tax rates, the Federal government would simply be making an additional general appropriation to these territories, while allowing territorial taxpayers to enjoy a tax reduction.

Further, the link between changes in the U.S. Internal Revenue Code and increases in appropriations to these territories may well be misleading to anyone unfamiliar with the actual fiscal structure in these territories. It may appear that changes in the U.S. Internal Revenue Code cause an unwarranted and forced reduction in the economic well-being of these territories. In fact, however, such changes result in a transfer of funds from the treasuries of the territories to the taxpayers of the territories. Since the loss to the territorial treasuries is the gain of the territorial taxpayers, changes in the U.S. Internal Revenue Code have no net effect on the economic well-being of these territories. If funds are "restored" by the Federal government to offset reductions in U.S. tax rates, the economies of these territories receive a net benefit they would not otherwise enjoy.

Finally, since many State income taxes are tied to the Federal tax base, this bill may prompt State claims for grants when changes in Federal income tax laws adversely impact State tax bases.

For these reasons, the Administration opposes on policy grounds the tax loss reimbursement proposal of section 204.

Administrative Objections to Tax Loss Reimbursement under Section 204

In addition to our policy objections to section 204 of S. 1674, the Administration objects to it on administrative grounds. The amount of revenue foregone by the territorial governments as a result of a general Federal tax revision cannot be determined with any precision. U.S. tax laws generally contain highly complex and interrelated provisions; determining their effects with respect to the territories would be difficult. Moreover, an examination of individual returns would not take into account the broader effects of the U.S. tax changes on these territories. For example, if incomes in these territories are generally higher as a result of a tax change than they would

otherwise have been, the total revenue foregone would be lower than that determined through computations based on each taxpayer's return.

In summary, section 204 is an ill-conceived form of making general appropriations to the territories. While the entire issue of the U.S.-territorial tax relationship merits further consideration, its defects cannot be resolved by an open-ended authorization for tax loss reimbursement. For these reasons, the Administration recommends that section 204 be deleted from the Omnibus Territories Bill.

Technical Assistance by the Customs and Postal Services under Section 202

Section 202 of S. 1674 directs the Customs and Postal Services of the United States to assist the appropriate officials of the Virgin Islands in the collection of local excise taxes. Pursuant to section 603 of P.L. 96-205, the U.S. Customs Service in 1980 concluded an agreement with the Virgin Islands to assist that government, on a reimbursable basis, in the collection of their excise tax. Under this agreement:

1. U.S. Customs examines all merchandise entering the U.S. Virgin Islands from foreign countries.

2. Release of merchandise is withheld pending receipt by Customs of Virgin Islands tax form 721, indicating that the excise tax has been paid, or has been reported to the Virgin Islands Department of Finance when the entry (immediate delivery under bond) procedure is used.

3. All excise tax collections are made by the Virgin Islands Department of Finance.

4. U.S. Customs advises the Virgin Islands Department of Finance of increases or decreases in the valuation of merchandise.

The Administration believes that the current agreement complies with the "assistance" required by section 202 of the bill. As S. 1674 does not specify who should bear the cost of assistance, the Administration presumes that section 603 of P.L. 96-205 would continue to control this factor, and the costs would thus be borne by the Virgin Islands. In order to avoid possible confusion, the Administration recommends that the following sentence be added at the end of section 202: "Such assistance shall be rendered on a reimbursable basis." Customs annually expends 84 man-years in the Virgin Islands. Should an agreement be reached whereby Customs would perform all functions related to collection of the Virgin Islands excise tax, we estimate that an additional 10 man-years would be required.

Senator WEICKER. Counsel points out to me that previous testimony has indicated the Virgin Islands would lose $14 million in taxes and Guam will lose $9.4 million. Ten percent of the 1980 mirror tax is $8.6 million for the Virgin Islands and $6.2 million in Guam.

Based on that rough calculation, it does not seem to me the surcharge tax would work.

Ms. HOFF. Those figures were included in the Interior testimony. I do not know where those figures came from.

Obviously rough estimates can be made. For rough estimates you could take the current annual tax collections of each territory and multiply them with respect to this last calendar year by 1.25 percent and for future calendar years by 10 percent, and so on, assuming there would be a rough across-the-board effect.

One could do that and come up with a very rough idea of the impact of the individual tax cut—though obviously not the corporation tax cut—on each territory. One problem in doing that is that it completely ignores bracket creep.

As is fairly common knowledge at this point, the effect of the U.S. tax cuts in 1975, 1976, and 1977 was not at all to reduce the effective tax rates for individuals. Those tax cuts were substantial, but inflation also was substantial and in each individual bracket caused enough bracket creep that, in fact, the tax cut left the taxpayer exactly where he stood before. That is, the ratio of his taxes to his income was unchanged.

In order to estimate the impact of inflation on territorial income tax receipts, we would need to have data on income tax brackets of the taxpayers in the territories. We do not have that data because we have no administrative responsibility for tax collection in the territories. We could obtain that data should the committee so wish simply by creating a system whereby the territories would make a random sample of their individual tax returns.

Senator WEICKER. The point I am trying to make is that we do not know. All we have done in trying to leave some flexibility in the Appropriations Committee's hands is that in case the answer which finally comes forth is totally unsatisfactory by any standard, we want to be able to adjust for it.

You people do not know any more than they know. We are all wandering around with a tremendous amount of guess work. Something is going to happen and what is going to happen could be very devastating to a human life, hundreds or thousands of human lives. I just will not legislate on that basis and I do not think the administration should create law on that basis. I would like to have as many facts in hand as I can.

Maybe supply side economics is a great talking piece in the cocktail party circuit in Georgetown but it has not found any justification or verification in fact and I am not willing to subject thousands of people to those kinds of unknowns.

We are running out of time. I very much appreciate the appearance by the administration. If there are further questions from the committee we will submit them for a response to the record.

I want to repeat to both Interior and Treasury that I would like to have in the hands of this committee a good deal more in the way

of specifics than we have this morning. I certainly think it could be generated within the next two weeks.

Thank you very much.

[Subsequent to the hearing Mr. Granwell supplied the following:]

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

4 NOV 1981

Dear Senator Weicker:

I am responding to the request which you made during hearings on S. 1674, the Omnibus Territories Bill, for further analysis of the effect on territorial tax revenues of the tax reductions under the Economic Recovery Tax Act of 1981.

We estimate that the impact of these cuts over the next three years, relative to territorial tax collections in the absence of the tax law changes, and taking no account of tax increases due to inflation, will be as follows:

	Calendar Year Liabilities ($ Millions)			
	1982	1983	1984	1985
Virgin Islands	12	22	32	35
Guam	9	21	30	31

These estimates, which we developed with the staff of the Joint Committee on Taxation and which we have discussed with the Interior Department, assume 10 percent annual growth in tax collections in the absence of a tax cut. These estimates are similar to estimates made by the Virgin Islands and Guam.

The limited data available on American Samoan income levels and the sensitivity of their tax revenues to the investment behavior of a small number of corporate taxpayers make it difficult to estimate the impact of the tax cuts on American Samoa with any precision. American Samoa estimates that it will lose $0.3 million in 1982 as a result of the tax reductions.

The impact of the changes in U.S. tax law should be compared with the built-in tax increases due to inflation. With a progressive rate structure, increases in nominal income that move a taxpayer into a different tax bracket can dramatically increase his tax burden. Furthermore, with exemptions and deductions stated in fixed dollar terms, taxable income during a period of inflation rises more

rapidly than inflation. Real income -- the taxpayer's actual purchasing power -- may stay the same or actually decline, but his tax liability increases in real terms as a result of the inflation of his income. Congress recently recognized the "unlegislated" tax increases arising from inflation by providing for the indexing of tax brackets beginning in 1985.

The enclosed table makes the comparison for the United States between the cumulative impact of inflation and the tax reductions enacted in the Economic Recovery Tax Act. The table takes acount of the statutory rate reductions, the new savings incentives, the reduction in the marriage penalty, and all other changes in the Act that reduce individual tax liabilities. The table shows that bracket creep due to inflation will offset 84 percent of the tax cut in calendar year 1982, and approximately 60 percent of the tax cuts in 1983 through 1986.

Because of the close economic ties between the United States and the territories, inflation rates in the territories are generally close to the U.S. mainland rates. Given the lower average income levels of territorial taxpayers, the net impact of the tax cuts and inflation is likely to be a somewhat smaller real tax cut in the territories than in the United States.

If the Virgin Islands and Guam do not want to cut their income taxes, they can impose their own income surtax of up to 10 percent, and/or increase non-income based taxes. For example, the government of Guam has noted that an alternative to Federal tax loss reimbursement grants would be a locally enacted increase in Guam's gross receipts tax from 4 percent to 5 percent, which would increase revenues by approximately $10 million in 1983. Imposition of a 10 percent income tax surcharge in Guam would raise an additional $8 million in 1983. Together, these two measures would much more than offset the net change in Guam's income tax receipts in 1983 and 1984 which will result from the Economic Recovery Tax Act and inflation.

In the case of American Samoa, the local legislature has full authority over both territorial income taxes and non-income taxes. Thus, the legislature could choose to retain the income tax provisions in effect prior to the passage of the Economic Recovery Tax Act.

If, however, the territories can obtain additional funds from the Federal government to offset cuts in the U.S. income tax, they can avoid the hard choice between maintaining tax burdens at current levels and cutting government spending.

There may be good reasons for increasing the general appropriations to the territories, but the Economic Recovery Tax Act is not among them. On whatever grounds increased appropriations are justified, there is no reason why the increase should be indefinite in amount, as proposed under section 204 of S. 1674.

I hope that this explanation addresses the points raised in the hearings. I would be pleased to answer any further questions which you or the Senate Energy and Natural Resources Committee may have.

Sincerely,

A. W. Granwell
International Tax Counsel

The Honorable
Lowell P. Weicker, Jr.
United States Senate
Washington, D.C. 20510

Enclosure

A Comparison of the Individual Income Tax Reductions of the Economic Recovery Tax Act of 1981 with Bracket Creep due to Inflation Since 1980

(Based on Midsession Review Economic Assumptions)

($ billions)

Year	Bracket creep due to inflation since 1980	Individual income tax reductions under ERTA
1981	9.3	-0.2
1982	24.2	-28.9
1983	46.3	-77.2
1984	70.7	-121.4
1985	96.7	-148.8
1986	126.3	-189.0

Office of the Secretary of the Treasury
Office of Tax Analysis

November 2, 1981

Senator WEICKER. Our witnesses from the territories will be Hon. Antonio Won Pat, Delegate from Guam. It is nice to have you here. Please proceed.

STATEMENT OF HON. ANTONIO B. WON PAT, DELEGATE FROM GUAM

Mr. WON PAT. Mr. Chairman, I bring you greetings from the people of the territories in Guam and I want to thank you on behalf of the people for your sympathetic understanding of the people and their problems and their needs. You have been very helpful in the past by pushing legislation on behalf of the territories.

I have had the opportunity of meeting with you on several occasions concerning matters of interest to the people.

I appreciate this opportunity to address you in support of the bill now before this committee, S. 1674.

I come here today wearing two hats, so to speak. First I speak as chairman of the Subcommittee on Insular Affairs in the House of Representatives and second, as a Delegate from Guam.

In both capacities I have no reservations whatsoever in giving my wholehearted support to this measure. I sincerely hope it will pass as written and I can assure you that I will do my utmost to provide every opportunity for its success in the House Interior Committee and before the full House of Representatives.

Title I essentially gives the residents of the Virgin Islands their locally written constitution. The Virgin Islands people are to be applauded for that and especially my colleague, Ron DeLugo, who has been a pillar of strength in the House as we debated the provisions of the new constitution.

I know that I speak for the members of the House Interior Committee when I say this proposal has our full support. The time has clearly come for the Virgin Islands to have the opportunity to enact a local constitution of its own choosing.

Title II, section 201. This section of the measure is a more direct concern to me since it directly addresses several key problems facing not only other American territories but those facing the territory of Guam.

Section 201 is similar to language contained in H.R. 3659 which I introduced in the House earlier this year. In doing so I responded to a well organized drive in Guam to amend the Organic Act to provide for certain elected officials in the territory to be removed from office by recall.

This section also authorizes initiatives and referenda. There is a manifest awareness and desire of the people of Guam to have at their disposal all of the tools of a full democracy.

As times change so should the ability of the electorate to deal with their chosen public officials in a manner which will assure that local government is truly reflective of the wants and needs of those it governs. It is essential for all public officials to understand the consequences of their actions should such actions be contrary to the best wishes of those whom they serve.

As we on Guam prepare for the future I believe that it is imperative to grant the people the right to have full access to the processes of initiatives, referenda and recall to assure that our society is a

fully democratic one. I urge that section 201 be approved by this committee.

On sections 202 and 203, both of these provisions were contained in legislation reported out of my subcommittee earlier this year and have my endorsement.

Section 202 will assist the government of the Virgin Islands to collect the full amount due them in local excise taxes. Section 203 simply delays transfer of U.S. owned property to local governments in the trust territory until such time as the United Nations approves termination of our trusteeship over that area.

On section 204, in many regards, this is one of the most important sections of the bill since it addresses the question of how the various territories are going to deal with massive reductions in our Federal aid.

My office has been hard at work attempting to develop a comprehensive understanding of how the reductions in Federal aid would impact on the territories.

All of us will certainly have grave difficulty in managing our fiscal affairs as a result of the Federal budget cuts and to make matters worse not only do the territories have to deal with less Federal aid but in the case of Guam, the Virgin Islands, and American Samoa, all of us will face staggering reductions in local tax revenues because of the Federal income tax cuts Congress just passed.

I have heard increasing comments in the past several days that the Federal Government may face a staggering shortfall in revenues next year. You can imagine what the effect will be in the smaller macroeconomies of the territories.

To give you an idea of how Guam will fare under the budget cuts, let me recite just a few facts.

Guam will lose $30 million in taxes over the next 3 years. In fiscal year 1982 Guam will lose $12 million in Federal grants. Reductions in food stamps will affect 1,900 people locally. Education funds will be cut this year by nearly $7 million. Guam has lost $6.5 million in sewer funds this coming fiscal year. The government of Guam has cut its work week from 40 to 35 hours. We are beginning to lay off in government. A potential 1,000 people eventually will get the ax.

I could go on but you can see that the problem is severe and will only get much worse unless Congress does something soon to help the territories rationally deal with this problem.

In the face of these massive cuts, I personally find it disconcerting that the administration is unwilling to go forward and implement the deficit elimination plan program. As required by the Federal Government, the territories had submitted the deficit elimination plan with no corresponding response from the administration to provide funds to implement the program.

This is not to say that the territories cannot or should not bear their fair share of facing the overall problem of reduced Federal revenues. All Americans are obviously affected by the budget cuts and we on Guam expect to bear our fair share.

The question which remains to be answered is just how much is our fair share of the economic burden? I contend that because of many reasons far beyond the control of the territorial governments

the budget cuts will wreck havoc with our economies and in doing so place a most unfair percentage of the burden on those who are least able to shoulder this burden.

In a statement I made on the House floor on September 28, I attempted to put this matter into proper focus. I stated that Americans in the territories are far more dependent on Federal spending not because they want to be but because Federal laws and Federal policies have given us no other options.

We are constricted by a number of Federal laws which put a tremendous economic burden on us without good cause. The Clean Air Act is one example. It would require that Guam spend over $20 million to clean up the air in our smoke stacks even though that smoke blows out to sea in a direction which is not populated for over 1,500 miles away.

There are also the constraints imposed on the development of a viable fishery industry in our offshore territories and the removal of the cabotage under the Jones Act. There are many others.

I must also note that our economic development has long been in serious need of assistance yet U.S. laws prohibit Guam from borrowing money for such purposes from foreign nations. Since we cannot get that money from private lenders in the United States who have traditionally shown little interest in the territories, where can we go? As always, I am afraid the answer has been to Congress.

For these reasons, I welcome the two provisions contained in section 204 as a positive approach towards resolving the economic problems of the various territories brought on by the current Federal fiscal policies. It will provide essential flexibility as you stated for the appropriation process.

I fully recognize that these provisions, one which seeks to provide economic relief against Federal program reductions and the other which seeks to compensate the territories of Guam, American Samoa and the Virgin Islands against loss of tax revenues are not entitlements.

Section 204 strengthens the ability of Congress to provide legislative relief to the territories in response to these problems.

As you know, Congress has full plenary powers over the territories under the Constitution. Thus it is crucial that Congress also have the power to resolve any problems the territories may have. Section 204 would do this by granting the House and Senate Appropriations Committees authority to provide the fiscal relief we in the territories desperately need to deal with the reductions in Federal aid.

Mr. Chairman, it is somewhat sad to note that up until the present time we have not had a comprehensive and cohesive policy for American offshore possessions. A coherent policy which the people of the territories can espouse and be guided by in their quest for local self development is critical.

I now stand ready to respond to any questions, Mr. Chairman.

Senator WEICKER. Thank you, Congressman. We will have to proceed. I thank you for your testimony and your very articulate expression of views.

Hon. Fofo Sunia, Delegate from American Samoa.

I have to point out to the witnesses that we have five more witnesses and this hearing has to end at 10 a.m. I realize your problems are monumental with the situations presented to you and I do not mind carrying on conversations in person or by correspondence. I think it is important that everyone get a chance to get their views on the record.

Congressman, it is nice to have you.

STATEMENT OF HON. FOFO I. F. SUNIA, DELEGATE FROM AMERICAN SAMOA

Mr. SUNIA. Thank you, Mr. Chairman.

I strongly support the passage of section 204 of the bill. I will not speak as to the entirety of the bill. I would like to congratulate and commend the people of Guam and the Virgin Islands in their continuing search for a more permanent political basis for the development of their territorial governments.

This provision is an authorization for the appropriation of funds to the Secretary of Interior as has been discussed this morning to reimburse the territories.

I sincerely appreciate your own views, Mr. Chairman, expressed this morning. I think it reflects a true understanding of the problems people will face as a result of these cuts.

The territory of American Samoa will suffer a reduction of $5.5 million in grants for fiscal year 1982. That represents 10 percent of our total government budget for the fiscal year.

It will affect 311 full-time employees and about 136 part-time positions. These figures may sound low but percentage wise for us they are indeed very large and very substantial.

A little over 20 percent of our labor force is employed in the private sector, most of which work in the American-owned canning industry. The remainder of the workforce is almost totally dependent on Federal programs.

In 1963 the local legislature adopted the U.S. income tax system. As you heard this morning, Mr. Chairman, any changes made to that basic law affects American Samoa automatically which is why we urge favorable consideration by your committee of the issue addressed this morning.

While considering these urgent needs of our territories, may I take this opportunity to alert your committee to a matter of critical importance to American Samoa.

For the past several months a series of electrical generator breakdowns has caused our utilities division to ration electric power. Power outages have become commonplace. Government offices, schools, and local businesses have been forced frequently to close due to these outages. Working hours have been curtailed. All of these have resulted from the loss of reliable electrical power.

A dependable and efficient electric utility system is essential to our economic development. We desperately need your help. As you will recall, Mr. Chairman, I recently addressed a letter on this subject to you.

At this point, may I ask that we introduce for the record a recent copy of a study by the Interior Department on this particular point and also a recent audit report on the status of these generators.[1]

[1] See Appendix.

I am a firm believer in the value of congressional dissentations to problem areas. I urge you to come and take a firsthand look at the difficulties. I am aware that visits by Members of Congress to our part of the world and to our part of the country are generally looked upon by some as being more fun than business.

I can assure you that there are real problems in paradise. Again I urge you to come and take a look for yourself.

Thank you.

[The prepared statement of Mr. Sunia follows:]

STATEMENT OF CONGRESSMAN FOFŌ I.F. SUNIA

IN SUPPORT OF S.1694

BEFORE THE SENATE COMMITTEE ON ENERGY
AND NATURAL RESOURCES

OCTOBER 21, 1981

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. PERMIT ME TO THANK YOU FOR GIVING ME THIS OPPORTUNITY TO TESTIFY IN SUPPORT OF S. 1674. THIS YEAR, AS THE TERRITORY OF AMERICAN SAMOA'S FIRST MEMBER IN THE U.S. HOUSE OF REPRESENTATIVES, I HAVE THE HONOR OF JOINING MY COLLEAGUES FROM OTHER TERRITORIES IN SEEKING FAVORABLE CONSIDERATION OF THIS IMPORTANT LEGISLATION.

IT WOULD BE INAPPROPRIATE FOR ME TO ADDRESS MANY OF THE SPECIFIC PROVISIONS OF THIS BILL. THIS IS, OF COURSE, IS THE DOMAIN OF THE DULY ELECTED REPRESENTATIVES OF THE GOVERNMENTS OF GUAM AND THE VIRGIN ISLANDS. HOWEVER, I CAN AND MUST SPEAK TO THE OVERALL THRUST OF THE BILL WHICH WOULD, AS I SEE IT, INCREASE AUTONOMY FOR GUAM AND THE VIRGIN ISLANDS AND INCREASE PARTICIPATION OF THEIR PEOPLE IN NATIONAL AFFAIRS. THE FEDERAL GOVERNMENT SHOULD CONTINUE TO ENCOURAGE LOCAL SELF-SUFFICIENCY FOR THE OUTLYING TERRITORIES WHILE MAINTAINING ITS COMMITMENT TO PERMANENT ECONOMIC AND POLITICAL UNION.

MR. CHAIRMAN, I STRONGLY SUPPORT THE PASSAGE OF SECTION 204 OF S. 1674. THIS PROVISION IS AN AUTHORIZATION FOR THE APPROPRIATION OF FUNDS TO THE SECRETARY OF THE INTERIOR TO OFFSET ANY DECREASE IN GRANTS AND TO REIMBURSE THE TERRITORIES FOR REDUCTION IN REVENUES AS A RESULT OF THE ENACTMENT OF THE CURRENT OMNIBUS RECONCILIATION ACT AND THE TAX INCENTIVE ACT.

AS PACIFIC CITIZENS, AMERICAN SAMOANS ARE A PROUD PEOPLE, INTENSELY PROTECTIVE OF THEIR CULTURE AND LANGUAGE, BUT EQUALLY DEVOTED TO THE DEMOCRATIC IDEALS OF THE UNITED STATES. FINANCIAL

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SELF-SUFFICIENCY WITHIN THE AMERICAN FAMILY OF STATES AND TERRITORIES IS AMERICAN SAMOA'S ULTIMATE GOAL. WE RECOGNIZE THAT HARD WORK IN THE LOCAL SECTOR IS THE PRINCIPAL WAY TO ACHIEVE THIS AIM. HOWEVER, LIKE OTHER DEVELOPING REGIONS OF THE U.S., COMPLETE ECONOMIC INDEPENDENCE IS DEPENDENT ON FINANCIAL ASSISTANCE FROM THE FEDERAL GOVERNMENT. WE MUST AND WILL CONTINUE TO SEEK NECESSARY FINANCIAL ASSISTANCE FROM THE FEDERAL GOVERNMENT UNTIL OUR DEVELOPMENT EFFORTS BEGIN TO YIELD POSITIVE RESULTS.

THE TERRITORY OF AMERICAN SAMOA REMAINS DEPENDENT ON THE GRANT PROVIDED BY THE INTERIOR DEPARTMENT FOR MANY OF ITS ESSENTIAL SERVICES. AS A RESULT OF THE FEDERAL BUDGET CUTS THIS YEAR, THE AMERICAN SAMOA GOVERNMENT IS ANTICIPATING A DECREASE OF FEDERAL GRANTS IN THE AMOUNT OF $5.5 MILLION FOR FISCAL YEAR 1982. THIS REDUCTION IN PROGRAM AID WILL AFFECT 311 FULL-TIME AND 136 PART-TIME POSITIONS WITHIN OUR LABOR FORCE. FOR A DEVELOPING AREA WITH FEW OF ITS OWN PRIVATE INDUSTRIES, THIS IS A SUBSTANTIAL CUT. A LITTLE OVER 20% OF OUR LABOR FORCE IS EMPLOYED IN THE PRIVATE SECTOR, MOST OF WHICH WORK IN THE AMERICAN-OWNED CANNING INDUSTRY. THE REMAINDER OF THE WORK FORCE IS ALMOST TOTALLY DEPENDENT ON FEDERAL PROGRAMS.

IN 1963, THE LEGISLATURE OF AMERICAN SAMOA ADOPTED THE U.S. INCOME TAX SYSTEM. CHANGES IN THE FEDERAL REVENUE CODE THEREFORE AUTOMATICALLY APPLY TO AMERICAN SAMOA. THUS, THE ENACTMENT INTO LAW OF THE TAX INCENTIVE ACT OF 1981 RESULTS IN A LOSS OF REVENUES TO OUR LOCAL GOVERNMENT WHICH, AT THIS TIME, IS EXTREMELY VULNERABLE TO SUCH SEVERE DEFICITS.

I BELIEVE THAT FAVORABLE CONSIDERATION BY YOUR COMMITTEE OF THE ISSUES ADDRESSED IN THIS LEGISLATION WILL ASSIST OUR TERRITORIES AND THEIR CITIZENS TREMENDOUSLY.

MR. CHAIRMAN, WHILE CONSIDERING THESE URGENT NEEDS OF OUR TERRITORY, MAY I TAKE THIS OPPORTUNITY TO ALERT YOUR COMMITTEE TO A MATTER OF CRITICAL IMPORTANCE TO AMERICAN SAMOA. FOR THE PAST SEVERAL MONTHS, A SERIES OF ELECTRICAL GENERATOR BREAKDOWNS HAS CAUSED OUR UTILITIES DIVISION TO RATION ELECTRIC POWER. POWER OUTAGES HAVE BECOME COMMONPLACE. GOVERNMENT OFFICES, SCHOOLS, AND LOCAL BUSINESSES HAVE BEEN FORCED FREQUENTLY TO CLOSE DUE TO THESE OUTAGES. WORKING HOURS HAVE BEEN CURTAILED. ALL OF THESE HAVE RESULTED FROM THE LOSS OF RELIABLE ELECTRICAL POWER. A DEPENDABLE AND EFFICIENT ELECTRIC UTILITY SYSTEM IS ESSENTIAL TO OUR ECONOMIC DEVELOPMENT. WE DESPERATELY NEED HELP. AS YOU WILL RECALL, MR. CHAIRMAN, I RECENTLY ADDRESSED A LETTER ON THIS SUBJECT TO YOU.

THANK YOU.

Senator WEICKER. Congressman, thank you very much. I know we have received your letter. We are aware of the problems you have cited with regard to the power generation.

It would be my hope after taking over the chairmanship of the responsibility of the Energy Committee for territories to personally visit with each one of the entities under the jurisdiction of the committee and that will be done.

I would no more care to legislate on the basis of ignorance than I think the Reagan administration should be legislating on the basis of ignorance.

I freely admit I am just getting into this aspect of my job and I can assure you I will see firsthand the problems that exist.

Right now we both have a problem and that is whether there is going to be any money to do anything. I know I can count on your support on the House side and I can assure you we will do the best we can on the Senate side to see that there is some sensible approach toward this problem.

Thank you very much.

Hon. Edward Pangelinan, Washington representative, Commonwealth of the Northern Mariana Islands.

STATEMENT OF EDWARD DLG. PANGELINAN, WASHINGTON REPRESENTATIVE, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. PANGELINAN. Thank you, Mr. Chairman.

I would like to extend our full support for section 204 of the proposed bill. The Governor and the people of the Northern Marianas asked me to extend their gratitude and appreciation to you, Mr. Chairman, for introducing this bill and particularly for your sensitivity and recognition of the special needs of the territories resulting from the reduction in Federal grants, and in particular for the support you are giving us for the Northern Marianas.

My testimony supports section 204 and also details the impact on the Federal reduction programs. As you heard this morning, the present impact at the present time is $4 million. That perhaps is a very small amount and a drop in the bucket in the Federal budget but for those of us in the Northern Marianas it is a very substantial amount in considering the total resources of the Commonwealth.

The testimony fully addresses itself to why we are supporting the request.

I would like to address the point that we are very grateful that we have the U.S. Congress. It appears that the Congress really looks to the interest of the islands.

You are going to have a very chaotic situation in the territories. It is very unfortunate that we come here. You can see the opposition from the representatives of the administration. I feel uncomfortable when I have to take the opposite position but you are the only one who has been concerned to the special needs of the islands and we are very grateful that you have staff that has taken the time to look at our problems and discuss the matters with us.

I hope the new people coming into the Department of Interior and other departments will begin to open a better dialog with us. It is rather distressing that you find a difference in our testimony. I

think a better dialog has to be established and a better policy created for the islands.

It is easy to take a position one way or the other, to support or oppose section 204 as an example. The administration is not giving us any vital alternative. Perhaps money is not the only thing that has to be corrected but it is a start.

I am very grateful that you have the generosity in your heart to consider those of us. We get somewhat lost in the Federal budget process because we are so small. We are grateful you have the time to be concerned about us.

If you need the information to justify our concern, I think we can provide you now with such information. It is information that is readily available. It is just a matter of getting the right people to come up with the information and provide you with the information if you so require.

Thank you.

[The prepared statement of Mr. Pangelinan follows:]

STATEMENT

OF

EDWARD DLG. PANGELINAN

REPRESENTATIVE TO THE UNITED STATES

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BEFORE THE COMMITTEE ON

ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

OCTOBER 21, 1981

Office of the Representative to the United States
Commonwealth of the Northern Mariana Islands

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MR. CHAIRMAN AND HONORABLE MEMBERS OF THIS COMMITTEE:

I AM EDWARD DLG. PANGELINAN, REPRESENTATIVE TO THE UNITED STATES FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS. ON BEHALF OF THE COMMONWEALTH, I WELCOME THIS OPPORTUNITY TO MEET WITH YOU AND YOUR COMMITTEE AS YOU CONSIDER SENATE BILL 1674.

OF PARTICULAR INTEREST TO THE COMMONWEALTH IS SECTION 204(1) WHICH AUTHORIZES APPROPRIATIONS TO THE SECRETARY OF THE INTERIOR FOR GRANTS TO THE TERRITORIES "TO OFFSET REDUCTIONS IN, OR THE TERMINATION OF, FEDERAL GRANT-IN-AID PROGRAMS APPLICABLE TO SUCH AREAS IN FISCAL YEAR 1981".

I UNDERSTAND THAT AS 1981 IS THE BASE YEAR UPON WHICH FUTURE REDUCTIONS WILL BE CALCULATED THIS PROVISION IS TO BE INTERPRETED AS AUTHORIZATION FOR FISCAL YEARS INCLUDING AND BEYOND 1981.

I COMMEND SENATOR WEICKER, WHO INTRODUCED THIS BILL, FOR HIS SENSITIVITY AND ASTUTENESS IN RECOGNIZING THE SPECIAL NEEDS OF THE TERRITORIES RESULTING FROM REDUCTIONS IN FEDERAL GRANTS. I ALSO

RECOGNIZE YOU, MR CHAIRMAN, AS A MEMBER OF CONGRESS WHO OVER THE YEARS HAS BEEN ONE OF THE MOST KNOWLEDGEABLE AND CONCERNED ABOUT THE TERRITORIES. AS THE CHAIRMAN SO ABLY RECOUNTED IN THE CONGRESSIONAL RECORD OF JUNE 25, 1981, FINANCIAL RESPONSIBILITY FOR THE U.S. TERRITORIES HAS SHIFTED OVER THE YEARS. MOST RECENTLY A LARGE DEGREE OF SUCH ASSISTANCE AS WELL AS VALUABLE TECHNICAL ASSISTANCE HAS EMANATED FROM FEDERAL PROGRAMS. AS WE ALL KNOW, MOST OF THESE PROGRAMS ARE SLATED FOR HEAVY REDUCTIONS OR ELIMINATION OVER THE NEXT FOUR YEARS.

ALTHOUGH THE COMMONWEALTH WILL GENERALLY EXPERIENCE THE SAME PERCENTAGE REDUCTIONS IN FEDERAL GRANTS-IN-AID AS THE STATES, THE PROPORTION OF THOSE REDUCTIONS TO ITS TOTAL BUDGET WILL BE VERY HIGH. THE BEST ESTIMATES WE HAVE SHOW LOSSES FOR 1981, DUE TO RESCISSIONS OF FEDERAL GRANTS, TO BE APPROXIMATELY $750,000. LOSSES FOR 1982, DUE TO REDUCTIONS OR ELIMINATION OF FEDERAL PROGRAMS, ARE EXPECTED TO BE $3,200,000. THE LATTER FIGURE MAY WELL BE INCREASED AFTER THE APPROPRIATON PROCESS IS COMPLETED. AT THIS POINT IT IS IMPOSSIBLE TO KNOW THE FULL ECONOMIC IMPACT ON THE COMMONWEALTH, BUT IT IS VERY CLEAR THAT THE REDUCTIONS WILL BE VERY SERIOUS AND THAT WE HAVE EXTREMELY LIMITED RESOURCES TO COMPENSATE FOR THEM. (ATTACHED FOR YOUR INFORMATION ARE DETAILED ESTIMATES OF PROGRAM REDUCTIONS FOR FISCAL YEARS 1981 and 1982.)

I AM DEEPLY CONCERNED ABOUT THE IMPLICATONS OF THESE REDUCTIONS FOR THE COMMONWEALTH. I WOULD LIKE TO HIGHLIGHT A FEW

CIRCUMSTANCES WHICH WILL SHOW HOW MUCH MORE SERIOUS THESE REDUCTIONS WILL BE FOR US AND HOW SOME OF THE BASIC PREMISES OF THE NEW REAGANOMICS DO NOT APPLY TO THE COMMONWEALTH.

REDISTRIBUTION OF INCOME

THE PRESIDENT'S PROGRAM ASSUMES THE NEED FOR FEDERAL PROGRAMS WILL BE LESSENED BY THE INCREASED PRODUCTIVITY OF THE PRIVATE ECONOMIC SECTOR RESULTING FROM FEDERAL TAX REDUCTIONS AND OTHER CHANGES IN THE TAX LAWS. THE COMMONWEALTH WILL NOT EXPERIENCE A SIGNIFICANT INCREASE IN REVENUE FOR THE PRIVATE SECTOR FROM TAX CHANGES AS ITS TAX SYSTEM IS NOT A MIRROR TAX OF THE INTERNAL REVENUE CODE AND WILL NOT THEREFORE BE AFFECTED BY THE CHANGES. FURTHERMORE, WHEN THE COMMONWEALTH CHANGES ITS TAX SYSTEM TO CONFORM TO THE INTERNAL REVENUE CODE (AS IS EXPECTED), REVENUES ARE PROJECTED TO BE LESS THAN UNDER THE PRESENT SYSTEM AS A LARGE PERCENTAGE OF THE PEOPLE WILL THEN BE EXEMPT FROM TAXATION BECAUSE OF LOW INCOMES.

POPULATION GROWTH RATE

CONTRARY TO THE NATIONAL TREND OF A DECREASING POPULATION GROWTH RATE IN RECENT YEARS, THE COMMONWEALTH HAS ONE OF THE FASTEST GROWING IN THE WORLD. FOR COMPARISION PURPOSES, THE RATE OF GROWTH FOR THE UNITED STATES FROM 1973 TO 1980 WAS .83 AND THAT OF THE COMMONWEALTH 2.99, OR OVER THREE TIMES AS GREAT. EDUCATION

IS ONE AREA WHICH PROVIDES A GRAPHIC CONTRAST BETWEEN CONDITIONS IN THE STATES AND THOSE OF THE COMMONWEALTH. IN GENERAL, SCHOOL SYSTEMS IN THE STATES ARE CLOSING SCHOOLS DUE TO SHRINKING ENROLLMENT WHILE THE COMMONWEALTH IS BUILDING AND NEEDS TO BUILD EVEN MORE SCHOOLS. WE RECENTLY HAD TO HAVE DOUBLE SESSIONS TO ACCOMMODATE THE BURGEONING SCHOOL POPULATION. THE BLOCK GRANTS WILL NOT BE ADJUSTED FOR POPULATION CHANGES, BUT WILL BE METHODICALLY REDUCED BY ACROSS-THE-BOARD PERCENTAGES.

TECHNICAL ASSISTANCE

WITH CATEGORICAL GRANTS, FEDERAL AGENCY REPRESENTATIVES VISITED THE COMMONWEALTH PERIODICALLY TO ASSIST WITH PLANNING AND PROGRAM DEVELOPMENT. WITH BLOCK GRANTS AND GREATLY REDUCED AGENCY TRAVEL BUDGETS, SUCH ASSISTANCE CANNOT BE EXPECTED TO CONTINUE. FURTHERMORE, WITH THE ELIMINATION OF THE INTERGOVERNMENTAL PERSONNEL PROGRAM (IPA), THE COMMONWEALTH WILL BE WITHOUT THAT FORM OF TECHNICAL ASSISTANCE FROM WHICH IT HAS BENEFITED SIGNIFICANTLY IN RECENT YEARS. THE EXPERTISE IN THE COMMONWEALTH IS GROWING, BUT IT IS STILL EXTREMELY LIMITED IN COMPARISON TO THAT OF AN AVERAGE STATE. TO PROGRESS WE MUST RELY ON OUTSIDE ASSISTANCE. ONCE AGAIN, OBTAINING SUCH ASSISTANCE IS MUCH MORE DIFFICULT FOR US DUE TO INADEQUATE TELEPHONE COMMUNICATIONS AND VERY HIGH TRAVEL COSTS.

FOR ALL THESE REASONS THE IMPACT OF FEDERAL PROGRAM REDUCTIONS WILL BE MUCH MORE SEVERE ON THE COMMONWEALTH THAN FOR THE STATES. FURTHERMORE, WITHOUT THE SAME CAPABILITIES TO STIMULATE THE LOCAL ECONOMY AND GENERATE LOCAL REVENUES, (REQUIRED COMPONENTS FOR THE SUCCESS OF THE REAGAN ECONOMIC PROGRAM), WE WILL NOT BE ABLE LOCALLY TO COMPENSATE FOR THOSE LOSSES.

I URGE THE COMMITTEE TO SUPPORT SECTION 204(1). THE ECONOMIC AND SOCIAL CIRCUMSTANCES OF THE TERRITORIES ARE SO DIFFERENT FROM THOSE OF THE STATES THAT IT WOULD NOT BE PROVIDENT OR APPROPRIATE TO SUBJECT THEM TO THE SAME ECONOMIC PROGRAMS DESIGNED FOR THE STATES. THE APPROPRIATION AUTHORIZATION OF SECTION 204(1) IS HIGHLY DESIRABLE AND, INDEED, URGENTLY NEEDED. MY HOPE IS THAT THE LEGISLATION WILL ALLOW THE TERRITORIES DIRECT ACCESS TO THE SUPPLEMENTAL APPROPRIATIONS AND THAT THEY WILL NOT BE SUBJECTED TO CUMBERSOME ADDITIONAL JUSTIFICATION PROCEDURES IN THE ADMINISTRATIVE PROCESS.

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE.

ESTIMATED REDUCTIONS OF FEDERAL PROGRAMS
FISCAL YEAR 1981

Commonwealth of the Northern Mariana Islands

PROGRAM TITLE	REDUCTION
Comprehensive Public Health Service (Sec. 314(d))	$ 65,250
Child Welfare Service	4,876
Water Resources Council	100,400
Comprehensive Employment Training Act	421,469
EPA Program Support Grant	30,000
Highway Safety Planning Grant	94,000
Highway Safety Construction Grant	32,667
TOTAL	$748,662

ESTIMATED REDUCTIONS OF FEDERAL PROGRAMS
FISCAL YEAR 1982

Commonwealth of the Northern Mariana Islands

PROGRAM TITLE	REDUCTION
Comprehensive Public Health Service (Sec. 314(d))	$145,000
Water Resources Council	99,000
EPA Program Support Grant	153,000
Comprehensive Employment Training Act	393,000
Young Adult Conservation Corps	156,000
Youth Conservation Corps	71,000
Highway Safety Construction Grant	572,000
Highway Safety Planning Grant	649,000
ESEA Title V Grant - Education	550,000
Bilingual Program	351,000
HUD Planning Grant	25,000
Historic Preservation Program	50,000
TOTAL	$3,214,000

Senator WEICKER. Thank you very much. We will certainly be in touch with you regarding the information.

Next we have two gentlemen who I will ask to come up at the same time, Hon. Ron de Lugo, Delegate from the Virgin Islands and Hon. Juan Luis, Governor of the Virgin Islands.

STATEMENT OF HON. RON de LUGO, DELEGATE FROM THE VIRGIN ISLANDS

Mr. DE LUGO. Thank you very much, Mr. Chairman.

I want to commend you personally and thank you on behalf of the territories for introduction of this legislation. I want to agree with the statements made by other representatives of the territories here this morning. I certainly agree with the statement made by Ed.

If this committee wants information on the impact of the tax cuts and the budget cuts, we from the Virgin Islands are prepared to provide that information to this committee today.

This information has already been provided to the Interior Department. I literally am very upset that Interior would come here—we look to Interior as the lead agency for these people who live in U.S. territories and they come before the committee and are not prepared and do not have the information as to the impact of these budget cuts and tax cuts on these territories, particularly since that information was provided some time ago by the Virgin Islands government.

I would like to say the legislation you have introduced implements the proposed Virgin Islands constitution by resolving inconsistencies in Federal law. I would like to say that we have with us the President of the Constitutional Convention, Rupert Ross, accompanied by Judge Henry Feuerzeig, and Hon. Alexander Farrelly. I support their position as to the legislation before us regarding the constitution and revising the Organic Act so they will reflect each other.

I have read the Governor's statement and I think it is an excellent statement and I agree wholeheartedly with his position in this area.

I see this bill you have introduced is a strong assertion of Congress role with regard to the Virgin Islands and the other territories in a difficult time of change and adjustment. This bill tells us that Congress has not forgotten that national policies cannot necessarily be transferred in whole to the territories and it tells us there is a plan that sees our economic problems as more fundamental than some of the States and shows us some provision for the special problems facing the U.S. territories in the next several years will be made. The key word is "flexibility."

The Virgin Islands has been hit from every side. The tax cuts will reduce local revenues to the tune of $14.1 million in 1982, the cuts in Federal program will mean a total of $12.5 million less in Federal aid in the same year.

The convention tax treaty that has been entered into with Jamaica or which is presently before the Congress, while damaging to our tourist trade, is most threatening in its potential for opening the floodgates to more tax agreements with other areas.

We support the Caribbean initiative. We realize it is in the national interest. Such agreements seem to be surfacing as the core of the administration's new Caribbean initiative and the impact of such agreements could be a complete loss of the competitive edge which has been an obvious advantage of our territorial status.

I point out that we are pleased Secretary Watt reversed an earlier policy and decided they would fill the position of Assistant Secretary for Territorial and International Affairs. The nominee's name was not sent up until this month and we really hope we can get somebody down in Interior that can be responsible for the territories' affairs during this time of great change.

With the strategy for the administration's Caribbean policy shaping up as a series of trade inducive agreements, the Virgin Islands urgently needs the administration to think through its territorial policies. While fiscal constraints make cost efficient foreign aid programs attractive, consideration must be given to whether the resulting effect on the territories is consistent with the responsibility this country has toward its own possessions.

The Virgin Islands is anxious to play a part and a leading one and a cooperative role in the administration's plans for lending assistance needed for stable growth in the Caribbean region. The Virgin Islands has close cultural and economic ties with neighboring islands.

Mr. Chairman, you know firsthand about the Virgin Islands.

Our concrete contribution we are hoping to make will be through the creation of a Caribbean center for educational, cultural, technical and scientific interchange at the College of the Virgin Islands. It would incorporate and expand upon such CVI existing facilities as the Caribbean Research Institute and the Rothchild Center. I do not have to go into this because it is obviously a vehicle that is there to help us.

This committee knows what the territories face. Debate on the Reconciliation Act earlier this year with a statement from Senator McClure about his concern that Congress may be creating situations in the territories which it is powerless to remedy.

By introducing this bill, Mr. Chairman, Congress has reasserted its jurisdiction over the territories and its understanding of our need for protective initiatives on our behalf.

Section 204(1) of the bill provides for a stop gap measure designed to give more flexibility to the territories through the shock of cuts in Federal programs in fiscal year 1981. Section 204(2) reimburses us for revenues lost as a result of Federal tax reductions and revisions. Such a tax reimbursement provision was included on the House side. It was lost on the House floor.

In the next few years we are going to need your help more than ever. S. 1674 is essential if you are to be able to do so because it provides the flexibility needed. Thus in closing, I commend the committee on taking this important step and you in particular, Mr. Chairman, towards fulfilling its responsibility to the territories.

I ask you to look beyond the scope of this bill to provide the support the territories will need in our efforts to gain the administration's support for specific territorial policy and that ties in with what you said earlier.

Thank you very much.

[The prepared statement of Mr. de Lugo follows:]

STATEMENT SUBMITTED BY

DELEGATE RON DE LUGO

U.S. VIRGIN ISLANDS

BEFORE THE

SENATE ENERGY & NATURAL
RESOURCES COMMITTEE

OCTOBER 21, 1981

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I THANK THE CHAIRMAN AND THIS COMMITTEE FOR INTRODUCING S. 1674, AND FOR GIVING ME THE OPPORTUNITY TO TESTIFY ON IT. THIS LEGISLATION IS IMPORTANT FOR THE VIRGIN ISLANDS IN SEVERAL RESPECTS. FIRST, IT IMPLEMENTS THE PROPOSED VIRGIN ISLANDS CONSTITUTION BY RESOLVING INCONSISTEN CIES IN FEDERAL LAW - A NECESSARY STEP ON OUR ROAD TO GREATER HOME RULE IN THE ISLANDS. RUPERT ROSS, PRESIDENT, AND JUDGE HENRY FEUERZEIG, OF THE FOURTH CONSTITUTIONAL CONVENTION WILL TESTIFY AS TO THEIR POSITION ON THIS PART OF THE BILL. I FULLY SUPPORT THEIR POSITION.

SECONDLY, S. 1674 PROVIDES CLARIFICATION OF THE AUTHORITY THE CUSTOMS DEPARTMENT AND POSTAL SERVICE HAVE TO ASSIST THE VIRGIN ISLANDS GOVERNMENT IN ITS COLLECTION OF EXCISE TAXES. SUCH ASSISTANCE WOULD CLOSE A LOOPHOLE WHICH ALLOWS MERCHANDISE TO BE MAILED TO THE VIRGIN ISLANDS, ESCAPING EXCISE TAX PAYMENT UNLESS THE MERCHANT VOLUNTARILY REPORTS RECEIPT. THE VIRGIN ISLANDS LOSES SIGNIFICANT TAX REVENUE THROUGH THIS LOOPHOLE. I HAVE ONE CONCERN REGARDING THE PROVISION. I HAVE SPENT THE PAST SEVERAL MONTHS WORKING CONTINUOUSLY WITH UNITED STATES POSTAL SERVICE TO RESOLVE OUR MAIL DELAYS. THE BENEFIT TO LOCAL BUSINESS, NOT TO MENTION THE RELIEF TO ISLANDERS GENERALLY, IS NOT INSIGNIFICANT. I URGE, THEREFORE, LANGUAGE IN THE COMMITTEE REPORT TO INDICATE THAT ASSISTANCE FROM THE POSTAL SERVICE NOT BE PROVIDED AT THE EXPENSE OF FAST, EFFICIENT MAIL DELIVERY.

THIRD, S. 1674 IS A WELCOMED ASSERTION OF THIS COMMITTEE'S ROLE WITH REGARD TO THE VIRGIN ISLANDS AND THE OTHER TERRITORIES IN A DIFFICULT TIME OF CHANGE AND ADJUSTMENT. THIS BILL TELLS US THAT CONGRESS HAS NOT FORGOTTEN THAT NATIONAL POLICIES CANNOT NECESSARILY BE TRANSFERRED TO THE TERRITORIES. IT TELLS US THAT THERE IS A PLAN AFOOT THAT SEES OUR ECONOMIC PROBLEMS AS MORE FUNDAMENTAL THAN THOSE FACED BY NEW JERSEY AND ILLINOIS, AND SHOWS US THAT SOME PROVISION FOR

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THE SPECIAL PROBLEMS FACING THE TERRITORIES IN THE NEXT SEVERAL YEARS HAS BEEN MADE.

BECAUSE OUR ECONOMIC ILLS ARE OUR MOST PRESSING, IT IS THIS THIRD ASPECT OF S. 1674 THAT I WISH TO STRESS THIS MORNING. THE NEED FOR MORE PRIVATE INVESTMENT AND LABOR INTENSIVE INDUSTRY HAS PRESENTED ITSELF WITH A NEW SENSE OF URGENCY. THE VIRGIN ISLANDS IS PRESSING ON, STRUGGLING TO SET UP THE COMMUNITY NETWORK NECESSARY TO ATTRACT AND KEEP INDUSTRY. WITH THE GRAMM-LATTA II CUTS, NOT TO MENTION THE NEW QUEST FOR REDUCED FEDERAL SPENDING, QUESTIONS OF HOW TO BUILD THE ROAD TO FISCAL INDEPENDENCE, ARE RAPIDLY BEING REPLACED BY QUESTIONS OF HOW TO AVOID ECONOMIC AND SOCIAL DISASTER.

THE VIRGIN ISLANDS HAS BEEN HIT FROM EVERY SIDE. THE TAX CUTS WILL REDUCE LOCAL REVENUES TO THE TUNE OF $14.1 MILLION DOLLARS IN 1982. THE CUTS IN FEDERAL PROGRAMS WILL MEAN A TOTAL OF $12.5 MILLION DOLLARS LESS IN FEDERAL AID IN THE SAME YEAR. THE CONVENTION TAX TREATY WITH JAMAICA, WHILE DAMAGING TO OUR TOURIST TRADE, IS MOST THREATENING IN ITS POTENTIAL FOR OPENING THE FLOODGATES TO MORE TAX AGREEMENTS WITH OTHER AREAS. IN FACT, SUCH AGREEMENTS SEEM TO BE SURFACING AS THE CORE OF THE ADMINISTRATION'S NEW CARIBBEAN INITIATIVE. THE IMPACT OF SUCH AGREEMENTS WOULD BE A COMPLETE LOSS OF THE COMPETITIVE EDGE WHICH HAS BEEN A MORE OBVIOUS ADVANTAGE OF OUR TERRITORIAL STATUS.

EARLY SIGNALS FROM THE ADMINISTRATION PROMISED SOME CONSIDERATION FOR THE NEEDS OF THE TERRITORIES. WORKING WITH MR. WON PAT, CHAIRMAN, OF THE SUBCOMMITTEE ON INSULAR AFFAIRS, AND WITH THE DELEGATES FROM OTHER TERRITORIES WE WERE ABLE TO GET SECRETARY WATT TO REVERSE HIS EARLIER POSITION BY AGREEING THAT, INTERIOR WOULD HAVE AN ASSISTANT SECRETARY FOR TERRITORIAL AND INTERNATIONAL AFFAIRS. THIS WAS ENCOURAGING AND I THANK MR. WATT FOR HIS SUPPORT, PARTICULARLY SINCE WE CLEARLY NEED A VOICE IN AN ADMINISTRATION MAKING SUCH COMPREHENSIVE CHANGES. MR. SAN

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JUAN'S NOMINATION, HOWEVER, WAS NOT SENT TO THE SENATE FOR CONSIDERATION UNTIL OCTOBER. MEANWHILE, SWEEPING CHANGES IN FEDERAL PROGRAMS AND TAXATION HAVE BEEN MADE WITH LITTLE THOUGHT GIVEN TO THE IMPACT ON THE CHANGES, THE TERRITORIES HAVE BEEN ISOLATED AT A CRUCIAL TIME.

WITH THE STRATEGY FOR THE ADMINISTRATION'S CARIBBEAN POLICY SHAPING UP AS A SERIES OF TRADE INDUCIVE AGREEMENTS, THE VIRGIN ISLANDS URGENTLY NEEDS THE ADMINISTRATION TO THINK THROUGH ITS TERRITORIAL POLICIES. WHILE FISCAL CONSTRAINTS MAKE COST EFFICIENT FOREIGN AID PROGRAMS ATTRACTIVE, CONSIDERATION MUST BE GIVEN TO WHETHER THE RESULTING EFFECT ON THE TERRITORIES IS CONSISTENT WITH THE RESPONSIBILITY THIS COUNTRY HAS TOWARDS ITS OWN POSSESSIONS.

THIS COMMITTEE KNOWS WHAT THE TERRITORIES FACE. IN THE DEBATE ON THE RECONCILIATION ACT EARLIER THIS YEAR, SENATOR MCCLURE STATED HIS CONCERN THAT CONGRESS MAY BE CREATING SITUATIONS IN THE TERRITORIES WHICH IT IS POWERLESS TO REMEDY. BY INTRODUCING S. 1674 THE COMMITTEE HAS REASSERTED ITS JURISDICITION OVER THE TERRITORIES AND ITS UNDERSTANDING OF OUR NEED FOR PROTECTIVE INITIATIVES ON OUR BEHALF. SECTION 204(1) OF THE BILL PROVIDES A STOP GAP MEASURE DESIGNED TO PROPEL THE TERRITORIES THROUGH THE SHOCK OF CUTS IN FEDERAL PROGRAMS IN FY 1981. SECTION 204(2) REIMBURSES US FOR REVENUES LOST AS A RESULT OF FEDERAL TAX REDUCTION AND REVISION. SUCH A TAX REIMBURSEMENT PROVISION WAS INCLUDED IN THE HOUSE WAYS AND MEANS COMMITTEE BILL, DEFEATED ON THE FLOOR EARLIER THIS YEAR. PRECEDENT FOR THE PROVISION HAS BEEN ESTABLISHED THROUGH PAST USE OF REIMBURSEMENT TO HELP THE TERRITORIES COPE WITH FLUCTUATIONS IN THE FEDERAL TAX CODE.

IN THE NEXT FEW YEARS, WE WILL NEED YOUR HELP MORE THAN EVER BEFORE. S. 1674 IS ESSENTIAL IF YOU ARE TO BE ABLE TO DO SO BECAUSE IT PROVIDES THE NEEDED FLEXIBILITY. THUS, IN CLOSING, I COMMEND THE COMMITTEE ON TAKING THIS IMPORTANT STEP TOWARDS FULFILLING ITS RESPONSIBILITY TO THE TERRITORIES. I ALSO ASK YOU TO LOOK BEYOND THE SCOPE OF THIS BILL TO PROVIDE THE SUPPORT THE TERRITORIES WILL NEED IN OUR EFFORTS TO GAIN THE ADMINISTRATION'S SUPPORT FOR A SPECIFIC TERRITORIAL POLICY.

Senator WEICKER. Thank you very much, Congressman.
Governor Luis.

STATEMENT OF HON. JUAN LUIS, GOVERNOR OF THE VIRGIN ISLANDS

Governor LUIS. Thank you, Mr. Chairman.

It is a real pleasure for me to appear before this committee. I would like to express my sincere appreciation and gratitude to you personally and this committee and Congress for assisting us under unique circumstances.

Every time I appear to testify, I have always brought about the idea that we do not like to come to the Congress to beg for help. Prior to the budget cuts and tax cuts, the territory was embarking on a very progressive trend toward minimizing many of its problems and out of the clear blue this situation came up, a situation that is beyond our control.

For this reason I am here really asking for help.

In the interest of time I will limit my remarks to S. 1674. This bill contains several provisions of great significance to the Virgin Islands. This legislation will be a major factor in assisting the territory to overcome its economic problems and to gain more autonomy.

The bill's two most important areas are the authorization of financial assistance necessitated by factors over which the territory has no control as well as provisions to insure the full implementation of the territory's proposed constitution.

Section 204 of the bill authorizes certain appropriations to the Virgin Islands and to the other territories and Puerto Rico effective in the 1983 fiscal year. The appropriations are designed to ease the effect on the territories of the Federal budget and tax cutting programs.

As the committee is aware, whenever Federal tax reductions are implemented this automatically results in a decrease in income tax revenues paid to the Virgin Islands Treasury. Thus the territory stands to lose about $14.1 million in fiscal year 1982 alone due to the recent Federal tax cuts. For fiscal years 1983 and beyond the negative effects to the Virgin Islands will be even more pronounced.

Senate bill 1674 recognizes this severe drain on territorial revenues is only an unintended side effect of the important Federal effort toward overall economic recovery. Therefore it authorizes reimbursement to the territories of revenues lost to them through Federal tax reductions.

I fully support this much needed initiative on the part of the committee and I urge that it be adopted.

Section 204 of the bill also authorizes grants for the territories to offset the impact of reductions in Federal grant-in-aid programs. The Virgin Islands has considerably fewer resources with which to deal with the impact of these reductions than do most other jurisdictions.

The relief that this provision would authorize will enable the territory to continue in its efforts to provide a basic minimum level of services to its residents. Section 204 is thus deserving of the committee's support.

Title II of the bill also provides a simple means by which the Virgin Islands can increase revenues from an existing revenue source. Section 202 provides for assistance from the U.S. Postal and Customs Services in the collection of local excise taxes.

It is estimated that $3 million per year in additional local excise taxes can be collected by thorough canvassing of parcels received in the Virgin Islands through the Postal Service. The cooperation of the Postal Service which is mandated by section 202 is necessary for local tax collection in this area.

Title I of S. 1674 is a comprehensive and technically thorough attempt to amend or repeat various Federal statutes which have potential or actual conflict with the proposed Virgin Islands Constitution scheduled for referendum action by the Virgin Islands voters on November 3 of this year.

I firmly support the provisions of title I with one major exception.

Section 109 of the bill provides for an appellate division of the District Court of the Virgin Islands. This section is in direct conflict with certain provisions of the proposed constitution which was ratified by Congress and approved by the President several months ago. I must therefore register my strenuous opposition to it.

Article VII of the proposed constitution establishes an Appellate Court of the Virgin Islands which would be composed of at least three locally appointed judges who would have the final say in local judicial matters. The convention which drafted the constitution intended that the local government would fully implement such a court by local law when its resources enabled it to do so.

In the interim the constitution would provide for the appellate court to consist of one locally appointed chief judge plus two federally appointed district court judges.

Section 109 would significantly alter this arrangement by replacing the interim appellate court with an appellate division of the district court headed by the chief judge of the district court and which would also be composed of two other judges assigned to the district court duty. No more than one of these three judges could be from a local court.

When Congress by unanimous vote of both Houses and the President recently approved the proposed constitution, they endorsed the document as a basic law for the territory subject only to subsequent approval by the Virgin Islands electorate.

Section 109 is inconsistent with a Federal conceived plan for the judicial branch of the local government. If section 109 is enacted in its present form and the proposed constitution is approved by Virgin Islands voters, the Virgin Islands would be the only constitutional jurisdiction of the United States in which the composition of the highest local court is not determined by local law.

I therefore urge the committee to preserve intact the constitutional provision on the Virgin Islands Appellate Court by appropriate amendment to section 109 of S. 1674.

With the exception noted, S. 1674 represents an important effort by this committee on behalf of the people of the Virgin Islands and would if enacted constitute a further endorsement by the Congress of the concept of territorial self determination. If section 109 is

amended as urged, I will be in full support of the provisions of this measure.

Thank you, Mr. Chairman.

Senator WEICKER. Thank you, Governor. I believe you are supporting this new constitution in the referendum. How do you look upon its chances at this time? We are less than a month away from the vote.

Governor LUIS. My personal assessment is it will pass.

Senator WEICKER. You had the opportunity to listen to the testimony of the administration, both the Interior Department and Treasury and the Justice Department.

Is there any comment you would like to make on that testimony?

Governor LUIS. I would like to merely indicate that with respect to information on budget cuts and Federal cuts which they had stated they had not received, I have two task forces, one that put together the impacts of both the budget cuts and the Federal cuts and then we learned later that some of the Federal programs for which funds were earmarked and not spent that this would bring about a change. I subsequently made another task force.

All this information was submitted to the Interior Department and OMB. I do not know if they have received the information but we certainly did relay the information. We would like to give them the information again if necessary.

Senator WEICKER. Thank you very much for your testimony and for coming here indicating your feelings toward the legislation.

I can assure you that Congress will do everything possible to make certain we know what is going to happen to you before we send you into the lion's den as a matter of fiscal practice. I will make certain that the committee stays in close touch with you as these matters develop both in this committee and the Appropriations Committee.

Governor LUIS. I would like to render my full assistance for any information that your committee may need.

Senator WEICKER. Thank you very much.

The last witnesses are Mr. Rupert Ross, President, Fourth Constitutional Convention of the Virgin Islands, accompanied by Judge Feuerzeig, and Alexander Farrelly, counsel to the convention.

Please proceed.

STATEMENT OF RUPERT W. ROSS, JR., PRESIDENT, FOURTH CONSTITUTIONAL CONVENTION OF THE VIRGIN ISLANDS, ACCOMPANIED BY HON. HENRY L. FEUERZEIG, CHAIRMAN, COMMITTEE ON JUDICIAL POWERS AND FUNCTIONS, AND ALEXANDER A. FARRELLY, COUNSEL TO THE CONVENTION

Mr. Ross. Thank you, Mr. Chairman.

It is a pleasure for me and the delegation from the convention to appear before you. As you noted the delegation consists of Alexander Farrelly, former judge, and legal counsel to the convention, and Judge Henry Feuerzeig, Chairman of the Committee on Judicial Powers and Functions.

On behalf of all the delegates and the people of the Virgin Islands, let me extend to you, Mr. Chairman, and the members of the committee our appreciation for the opportunity to appear and testify.

We are extremely grateful to the committee for taking the time to meet with us and to consider what to the people of the Virgin Islands is another significant step in our continuing evolution toward self-government.

We recognize that Senator McClure stated at the May 8 hearing that neither status or Federal relations were involved in the consideration of the constitution. Senator McClure also stated that this constitution does not foreclose future consideration of those issues.

In our written statement we have submitted some changes for you to consider to S. 1674 but we would defer these changes to status discussion as the chairman has suggested.

I would like to yield to the most substantial issue of the bill as drafted and I would ask the members of the committee and Congress to modify the section 109 and the proposed section 23(a) relating to the interim appellate court.

With your permission, I would like to yield to Judge Henry Feuerzeig who will discuss the need to amend S. 1674.

Senator WEICKER. Judge Feuerzeig.

STATEMENT OF HON. HENRY L. FEUERZEIG, CHAIRMAN, COMMITTEE ON JUDICIAL POWERS AND FUNCTIONS, FOURTH CONSTITUTIONAL CONVENTION

Judge FEUERZEIG. Mr. Chairman, thank you for having us before you. It is a pleasure to be here and to have the opportunity to commend you for acting as swiftly as your committee is in your pledge to act to fully implement the Constitution of the Virgin Islands, even before the voters go to the polls on November 3 and we are extremely grateful for that.

I have submitted a detailed statement with an appendix. In brief, we endorse title I of S. 1674 while we might have drafted it differently in many respects. We have one chief substantive change that we believe must be made if the Congress and the administration are going to carryout their pledge to implement the constitution as drafted.

On page 2 of my statement I suggest language to substitute for subsection (b) of section 109 which would add a new section 23A and I will not read it at this time.

This amendment would bring the Federal law, amendment of the Organic Act, into complete conformity with the Constitution as approved by the delegates to the Fourth Constitutional Convention, and to adopt 23A as it is written with all due respect would do violence to the proposed constitution and render hollow this committee's pledge "not to exercise its authority in the future on matters of local government," a pledge also made by the House Interior Committee and by the administration when it appeared before this committee in May.

It does not, Mr. Chairman, provide for the appointment of a local judge in accordance with the transitional schedule of the constitution and it would make the chief judge of the district court the chief judge of the appellate court as opposed to the judge who would be appointed by the Governor and confirmed by the Senate.

These are in our opinion two very substantive changes. While the bill before you does eliminate the one judge appeal process that

has been so strongly condemned in all legal quarters, it does not permit the constitution to be implemented as drafted.

This was the section that was most vigorously debated within the Committee on Judicial Powers and on the floor of the convention and it was done after the Third Constitutional Convention which provided for the creation of the Supreme Court and rejected by the people.

The only way we determined that we could get a constitution with the local court system was to provide as we have in this constitution for a transitional court, not a court imposed by the Federal Government. It is not a novel approach, Mr. Chairman. It is one suggested by a committee chaired by the former Solicitor General of the United States, Mr. Bork, and which consisted of the chief judge of the District Court of the Virgin Islands, Almeric L. Christian, Austin Raney, former president of the American Political Science Association.

With the task force report of Mr. Bork and the Third Convention, we drafted a constitution and a judicial article to meet the needs of the people and one which we felt would be acceptable.

To those who say and Justice has suggested this morning that once the appellate court is established as we provide, it will be a permanent fixture. I say, Mr. Chairman, that I anticipate upon passage of the constitution that the interim court will be implemented as expeditiously as possible.

The only restraints are finances and need. We believe the need is there today and as you have heard the financial picture this morning, when the delegates voted, we did not know there was going to be a $26 million shortfall but we are not asking for any additional money to implement the interim court.

It must be remembered this is a local court. The district judges although Federal sit as local judges and I might add they have law clerks that are paid by the government of the Virgin Islands.

It has been suggested this would offend the dignity of the Federal Court. In my statement attached you will find the testimony of Almeric L. Christian, chief judge of the U.S. District Court for the Virgin Islands. On page 22 he said he had no qualms about serving as an associate judge with the local judge being the chief judge of the court.

Before coming here today, I conferred with him and he said I could convey to this committee that he does not desire to have the additional administrative responsibilities that would be given to him if he were made the chief judge of the interim appellate court.

If there is dignity that is going to be offended, it certainly will not be to the chief judge of the District Court of the Virgin Islands.

Let me say, Mr. Chairman, that the Northern Marianas provision was a provision that was put forth by the people of the Northern Marianas. The people of the Virgin Islands through its convention have put forth this system. When Congress approved the constitution for submission to the voters on November 3, it said to the people, if you pass this constitution, this is the constitution you will have.

If this bill is passed as drafted, Congress word will present a serious question in the minds of the people as to whether it can be taken seriously.

Mr. Chairman, with all due respect, we urge you not approve the bill as drafted, make the one substantive amendment as we have proposed so that the constitution can be voted up or down as drafted by the constitutional convention and as approved hopefully by the people.

Thank you.

[The prepared statements of Mr. Ross and Judge Feuerzeig follow.]

STATEMENT OF RUPERT W. ROSS, JR.
PRESIDENT, FOURTH CONSTITUTIONAL CONVENTION
OF THE VIRGIN ISLANDS

to the
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
October 21, 1981

Mr. Chairman, members of the Committee on Energy and Natural Resources, I am Rupert W. Ross, Jr., President of the Fourth Constitutional Convention of the Virgin Islands. It is a pleasure for me and a delegation of the Convention to appear today before you. The delegation consists of Alexander A. Farrelly, Legal Counsel to the Convention, and Judge Henry L. Feuerzeig, Chairman of the Committee on Judicial Powers and Functions.

Let me, on behalf of all the delegates to the Convention and the people of the Virgin Islands, extend to you, Mr. Chairman and the members of this Committee, our appreciation for the opportunity again to appear and testify. We are extremely grateful to the Committee for taking the time to meet with us and to consider what to the people of the Virgin Islands is another significant step in our continuing evolution toward self-government.

As you know, Mr. Chairman, this Committee and Congress acted favorably on House Joint Resolution 238 and approved for submission to the people of the Virgin Islands the proposed Constitution as adopted by the Fourth Constitutional Convention of the Virgin Islands. Today you have before you S. 1674, which would, upon its enactment, provide for the immediate implementation of the Constitution upon its approval by the voters of the Virgin Islands.

As you know, Mr. Chairman, the voters of the Virgin Islands will go to the polls on Tuesday, November 3, 1981, to cast their ballots on the work of the Fourth Constitutional Convention. We are hopeful and optimistic that they, too, will take the necessary step toward greater self-determination and self control for the people of the Virgin Islands and adopt the Constitution as approved by the Fourth Constitutional Convention. This, of course, would be consistent with the action of Congress on House Joint Resolution 238, which passed the House of Representatives by a vote of 408 to 0 on Tuesday, May 5, and which was approved by a unanimous vote in the Senate on June 3, and then on July 9 was signed into law as Public Law 97-21 by President Ronald Reagan.

I am extremely pleased to see that the bill now before the Committee would amend the Revised Organic Act of 1954 so as to provide for immediate implementation of the Constitution upon its approval by the people. We are extremely gratified that the Committee has taken this initiative and that it has moved so swiftly--even before Virgin Islands voters go to the polls in November.

We recognize, Mr. Chairman, that at the hearing on May 8 this Committee promised speedy action in the drafting of legislation and the repeal of "those provisions of Federal law affecting local government in the Virgin Islands which must be repealed before the Constitution can become fully effective." We applaud the fulfillment of that commitment "to consider those repeals expeditiously so that there will be no hiatus between the effective date of the Constitution and the removal of Federal law."

We also recognize, Mr. Chairman, that Senator McClure stated at the May 8 hearing that neither status nor Federal Relations were involved in consideration of the Constitution. But Senator McClure also stated that "this Constitution does not foreclose future consideration of those issues." With that in mind, Mr. Chairman, we would ask that you consider some changes in S. 1674, which we believe would be consistent with the expressed desires of this Committee to fully implement the Constitution as approved by the Fourth Constitutional Convention.

First, Mr. Chairman and members of this Committee, we request that you amend Section 102 of S. 1674 and the new proposed Section 3 of the Revised Organic Act by inserting after the words "nineteenth amendments" and before the words "provided, however," the following or similar language:

> "Provided, that such provisions and amendments to the Constitution of the United States shall not be construed to invalidate any provision of the Virgin Islands Constitution that establishes residency requirements for the purpose of establishing Virgin Islands citizenship, the right to vote, or to hold any public office established by the Virgin Islands Constitution."

I believe, Mr. Chairman, that the purpose of the language is self-explanatory. As you will recall, when Ruth Van Cleve, Deputy Assistant Secretary (Policy), Territorial and International Affairs, Department of Interior, on behalf of the Administration, appeared before you in May, she raised questions as to the validity of the one-year domicile requirement in order to become a citizen under Article III, Section 2 of the proposed Virgin Islands Constitution as well as the fifteen-year residency eligibility requirement to run for Governor. Our suggested language, Mr. Chairman, answers

those concerns. While we are prepared to defend the citizenship and residency requirements under the United States Constitution, we believe this change would eliminate many of the questions and permit the will of the Convention, upon approval by the voters, to prevail.

Consistent with the wishes of the delegates, but again recognizing that this suggestion goes beyond mere implementation of the Constitution as drafted, we wish to recommend that Section 110 of S. 1674, which amends Section 24(a) of the Revised Organic Act, be further amended so that the District Court judges would serve for terms of ten years as opposed to the present eight-year terms. The delegates to the Fourth Constitutional Convention specifically adopted this proposal to provide some means of protection for our District Court judges against the vagaries of the political system. The primary purpose for the change to ten years is to make certain that a District Court judge will be eligible for retirement benefits upon completing a term. It also will mean he or she will not lose his or her period of service if not reappointed.

We also recommend adding Section 18 of the Revised Organic Act, Title 48 of the United States Code, Section 1631, to the list of sections to be repealed in Section 117 of S. 1674. Section 18 of the Revised Organic Act requires the establishment and maintenance of a system of accounts and internal controls. We believe, in view of Article XI, Taxation and Finance, and the provision for the creation of an auditor general under the proposed Constitution, that such a provision is no longer necessary.

We also are concerned with Section 120(a) of S. 1674, which among other things, states that Sections 3 and 5 of the Act of March 3, 1917, as amended, are deemed to have expired or be superceded by subsequent legislation. We have reservations about that position. We have been led to believe that the recent excise tax case raises some questions as to whether that is a correct position. We would recommend that they be retained at this time, or at least until they are replaced by legislation that would provide the Virgin Islands with the benefits originally intended by these sections.

We have similar concerns with respect to Section 120(g) of S. 1674 that repeals the Act of October 28, 1951, Title 48 United States Code, Sections 1409m through 1409o. We wish to make certain that this would not adversely affect the agricultural programs of the Virgin Islands.

We also continue to have reservations about Section 113 of S. 1674, which would amend Section 29 of the Revised Organic Act so that "all members of the Legislature of the Virgin Islands, the Governor, the Lieutenant Governor, all judges, and all officials of the Government of the Virgin Islands who report directly to the Governor shall be citizens of the United States." In view of the fact that the proposed Constitution of the Virgin Islands imposes a United States citizenship requirement for election to the Senate, Governor, Lieutenant Governor, or appointment as a judge, we see no need for this provision.

Finally, we also have one major substantive difficulty with the bill as drafted and hope that we also can prevail upon you and the members of the Committee and the Congress to modify that section. That change is with respect to Section 109 and the proposed Section 23A, relating to the interim appellate court.

When we appeared before you on May 8, Mr. Chairman, we emphasized that we recognized federal legislation and amendment of the Revised Organic Act of 1954 would be necessary to implement fully the Constitution as approved by the Fourth Constitutional Convention. S. 1674 goes ninety-five percent of the way in doing that. We ask that you give us the final five percent and provide for the implementation of the interim appellate court as provided for in Section 5 of the Transitional Schedule of the proposed Constitution. In doing that this Committee and Congress will demonstrate their total commitment to giving the people of the Virgin Islands control over their local government. With your permission, Mr. Chairman, I would at this time like to yield to Judge Henry L. Feuerzeig, Chairman of the Committee on Judicial Powers and Functions, who will discuss in detail the need to amend S. 1674 and the provision that provides for the creation of an appellate division of the District Court of the Virgin Islands.

STATEMENT OF HENRY L. FEUERZEIG
CHAIRMAN, COMMITTEE ON JUDICIAL POWERS AND FUNCTIONS
FOURTH CONSTITUTIONAL CONVENTION

to the
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
October 21, 1981

Mr. Chairman, members of the Committee on Energy and Natural Resources, I am Henry L. Feuerzeig, a Delegate to the Fourth Constitutional Convention of the United States Virgin Islands. I also served as the Convention's chairman of the Committee on Judicial Powers and Functions.

First, let me, as Mr. Ross, extend my appreciation for the opportunity to appear and testify today. As you know, I also had the pleasure of testifying before you on May 8, when you acted favorably on House Joint Resolution 238, which approved the Constitution adopted by the Fourth Virgin Islands Constitutional Convention for submission to the voters of the Virgin Islands.

Mr. Chairman and members of the Committee, I too, am extremely grateful for the speed with which this Committee has moved to amend the Revised Organic Act of 1954 so that upon approval by the voters of the Virgin Islands, the Constitution as adopted by the Fourth Constitutional Convention can be implemented without delay. It is indeed heartening to see the Committee follow through on the pledge made by Senator McClure at the hearing on May 8, when he promised that he would request of the

Administration:

> ... a drafting service to identify those provisions of federal law affecting local government in the Virgin Islands which must be repealed before the Constitution can become fully effective. [And of the committee's] intention to consider those repeals expeditiously so that there will be no hiatus between the effective date of the Constitution and the removal of Federal law.

With your permission, Mr. Chairman, I would support the comments of President Ross and limit my discussion to those provisions of S. 1674 pertaining to the courts, in particular, the proposed new Section 23A as included in Section 109 of S. 1674.

While I might have drafted them differently, I have no substantive objections to the proposed subsections (a), (c) and (d), but I do urge that you not enact the proposed subsection (b) to Section 23A.

Instead, Mr. Chairman, I urge deletion of the proposed subsection (b) and the enactment of language similar to the following:

> Until the appellate court of the Virgin Islands as provided by the Constitution of the Virgin Islands is established, the two district court judges shall serve on the appellate division in the manner and for the purposes prescribed by the Constitution and laws of the Virgin Islands.

The effect of this amendment would be to bring S. 1674 in complete conformity with the Constitution as approved by the Fourth Constitutional Convention, and thus fully implement the Judicial Article provided for in Article VII of the proposed Constitution as well as Section 5 of the Transitional Schedule. This language would permit our District Court judges to serve on the appellate court on an interim basis, and would place Congress squarely behind the expressed desires of the people of the Virgin Islands to establish an interim appellate court as approved by the Constitutional Convention.

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With all due respect, Mr. Chairman and members of the Committee, adoption of subsection (b) of the proposed Section 23A as presently drafted would do violence to the proposed Constitution and render hollow this Committee's pledge "not to exercise its authority in the future on matters of local government."

In brief, subsection (b) deals with the interim court as provided for in the Transitional Schedule. While subsection (b), as drafted, provides for an appellate division within the District Court, which would consist of two district court judges, it does not provide for or permit the appointment of one local judge in accordance with the proposed Constitution, as is provided for by Section 5 of the Transitional Schedule. In addition, the bill now before you would make the Chief Judge of the District Court the presiding judge of the appellate division, as opposed to the territorial judge who would be appointed by the Governor and confirmed by the Virgin Islands Senate. These two differences are not a matter of splitting hairs. They reflect a crucial difference that cuts to the heart of the issue of local vs. federal control of the judicial branch of the Government of the Virgin Islands.

We view implementation of these two provisions of the Constitution as both substantive and necessary in order for us to take that most important first step towards the creation of a truly local appellate court as provided for in Article VII, Section 1. While the appellate division created by S. 1674, in accordance with the standards of the American Bar Association's Commission on Standards and Judicial Administration, does eliminate the much-criticized appeal process by which appeals go from one judge to one judge, it would perpetuate a federally dominated and supervised

court as the local appeals court, and would not permit what we believe to be a desirable transition toward the implementation of a truly local appeals court.

The transitional court provision of the Constitution was vigorously debated within the Committee on Judicial Powers and Functions as well as on the floor of the Convention. The decision to opt for the interim court as adopted by the elected delegates was not made lightly.

As I know you are aware, Mr. Chairman, the Constitution approved by the Third Constitutional Convention provided for the immediate creation of a "Supreme Court of the Virgin Islands" as a totally local appellate court. The voters of the Virgin Islands rejected that Constitution. One of the reasons given was that a local appeals court would be too costly.

While I and many other delegates to the Fourth Constitutional Convention disagreed with that belief, there was a strong, well-thought-out view that the only way to obtain voter approval of a Constitution that provides for a truly local court system would be to provide for the creation of an interim appellate court. This gives our local elected officials the power to determine the need for such a court system and the ability of the Government to finance it. Mr. Chairman, I trust that you will permit our local elected officials to make that determination. They are the ones who should make it.

Let me point out, Mr. Chairman, that ours is not a novel approach or one even concocted by the Convention's Committee on Judicial Powers. In fact, the provision for an interim court of only a slightly different composition was first suggested several years ago during the term of our late Governor, Cyril E. King. While governor, Cyril King brought together a brain trust consisting of noted judges, lawyers and legal scholars from throughout the country to help draft a proposed Constitution to be submitted to the Third Constitutional Convention. Unfortunately, before that work could be completed, Governor King died. But the work of that task force with respect to the courts was preserved and was presented during the Fourth Constitutional Convention to the Committee on Judicial Powers by Almeric L. Christian, Chief Judge of the District Court of the Virgin Islands. Governor King's task force on the courts was headed by former Solicitor General Robert Bork and included, among others, Judge Christian, Verne A. Hodge, the presiding judge of the Territorial Court, and Austin Raney, former president of the American Political Science Association.

Under the proposal drafted by the Bork task force, the appellate court would have been called the Supreme Court. Its members would have been the two district court judges of the Virgin Islands and the presiding judge of the Territorial Court of the Virgin Islands or, alternatively, when the Legislature so decided, three locally appointed judges. I have attached to my statement not only a copy of the Bork task force proposal, but a transcript of Judge Christian's testimony of May 1, 1980 before the Committee on Judicial Powers and Functions.

With this proposal and the work of the Third Constitutional Convention before us, the Committee on Judicial Powers and Functions of the Fourth Constitutional Convention set out to draft a judicial article that would be acceptable to the Committee, the delegates to the convention, and, most importantly, the people of the Virgin Islands. We believe, Mr. Chairman, that we reached that end.

I recognize that this committee may be fearful that once established the interim court will become a permanent fixture. I can only assure you that that was not the intention of the Convention in providing for the interim appellate court. I also predict that upon passage of the Constitution, pressure will be brought to bear on our local senators to establish the permanent appellate court as quickly as is feasible. Quite frankly, there were amendments offered during the Constitutional Convention to fix a specific time by which the Senate would have to implement fully the local appellate court. Those amendments, however, were rejected out of fear that such a provision would tempt our elected officials to wait until just before that time expired, and because of a desire to let our elected officials make the necessary financial determinations so the appellate court could be implemented in an orderly manner. Given the political situation in the Virgin Islands and the difficulties that we faced in coming to a concensus on this difficult and politically volatile subject, we implore you to heed our pleas and permit us to implement the judicial article as drafted.

We also recognize, Mr. Chairman, that there may be some concern here over the fact that we provided that a locally appointed judge will be the presiding judge over two federal judges. First, I think

it is important to remember that even on an interim basis, this court is intended to be a local appellate court hearing local matters. While it is true that the two federally appointed District Court judges would continue to sit on the interim court until a fully local appellate court is implemented by Virgin Islands elected officials, this would not change the nature of the court from a local court to that of a federal court. More importantly, it must be remembered that in their capacity as appellate judges, the District Court judges, as now, will be acting as local territorial judges and not as federal judges. In fact, even today, the Government of the Virgin Islands pays the total salary of one of the two law clerks each District Court judge has because of his local duties.

Second, and more importantly, we believed that making the chief judge of the District Court the presiding judge of the appellate division would place even greater burdens on the Chief Judge of the District Court than he now has--burdens that unnecessarily would increase his administrative and judicial duties.

As you can appreciate, with the interim court provided for by our proposed Constitution, the locally appointed judge would, as the presiding judge, have the administrative responsibilities for this court. This, of course, would relieve each of the District Court judges of that responsibility as each judge now sits as an appellate court. Moreover, I would envision the local judge--except in those few cases where there is a deep division among the three judges--being the one who would handle much of the opinion writing, procedural orders and preliminary review of matters that would come before the appellate division. This, too, would relieve the chief judge of the District Court of that responsibility. This seems to us to be consistent with an acceptance by the people of the Virgin Islands

and of the local government of more responsibilities and obligations with respect to local matters. It also, of course, has the additional benefit of diminishing the District Courts responsibility for purely local matters as it evolves into a truly Federal district court within the Federal system.

The proposed subsection (b) of Section 23A also has the glaring deficiency of permitting a continuation of an appellate court composed entirely of Federal judges. Under S. 1674 not only would the two District Court judges serve, but a third federal judge from anywhere in the country could be appointed--whether he sits within the Third Circuit or not. As drafted, a judge from across the country could be designated as a Virgin Islands District Court judge by the chief justice of the United States Supreme Court, and thus also be on the appellate division.

Our intention in providing initially for one locally appointed judge was to provide a starting point toward the implementation of a fully local appellate court, while, as pointed out earlier, doing away with the present one-judge appellate court process. It also was designed to set up the basic procedures for the operation of a permanent local appellate court and to permit an orderly transition from our existing hybrid federal-local appellate court to a fully local appellate court.

While subsection (b) would permit a current sitting local Territorial Court judge, who was designated as a District Court judge, to serve on the appellate division, a similar provision also was rejected by the Convention. Initially, the Committee on Judicial Powers followed the Bork task force proposal and recommended that

the presiding judge of the Territorial Court serve on the interim appellate court. However, the Convention decided that that would foster a potential conflict among the judges of the Territorial Court by having one judge sit to review the work of his fellow judges. While on an occasional basis such a relationship may be useful, it was believed that in such a small community as ours better judicial relations would exist if judges of the same court did not sit in review of the decisions of their co-equals. As a result we removed the presiding judge from the interim appellate court. While a presiding judge of the Territorial Court may ultimately be appointed to the appellate court, the proposed Constitution would preclude the presiding judge of the Territorial Court or a local judge from continuing to serve similtaneously on the Territorial Court and the appellate court. S. 1674 as drafted, though, would not prohibit such a situation.

Passage of S. 1674 with an amendment to reflect our proposed interim court also would result in a reduction of Federal expenditures for Virgin Islands courts in several respects. As you know, under the Revised Organic Act of the Virgin Islands, the District Court of the Virgin Islands now has general original jurisdiction over all local matters in the Virgin Islands, exclusive jurisdiction of which is not conferred by the Revised Organic Act upon the inferior courts. The only matters now exclusively within the jurisdiction of the inferior courts of the Virgin Islands are all civil actions wherein the matter in controversy does not exceed the sum of $500, exclusive of interest and costs, and criminal cases wherein the maximum punishment that may be imposed does not exceed a fine of $100 or imprisonment for six months, or both, and all violations of

local police and executive regulations. Consequently, as we read S. 1674, upon its enactment and passage of the Constitution, all local civil actions up to $50,000 and all criminal cases wherein the penalty does not exceed five years, over which the Territorial Court now has concurrent jurisdiction with the District Court, would fall solely within the jurisdiction of the territorial courts of the Virgin Islands, and not within the jurisdiction of the District Court of the Virgin Islands. In addition, as the elected officials of the Virgin Islands act to increase the jurisdiction of the territorial court--and proposals now are pending before the Virgin Islands Legislature to do just that--more cases will be removed from the jurisdiction of the District Court, thus further relieving the burden on that court, reducing federal costs, and, of course, increasing the cost to the local government.

In addition, under the bill as now drafted, the cost to the federal government would be further reduced upon enactment of the Constitution because the United States Court of Appeals for the Third Circuit would no longer concern itself with appeals involving strictly local cases. Since S. 1674 will continue utilization of the Third Circuit for appeals from the local courts in purely federal matters, we can see no reason why Congress would not want to permit us this further limited use of the two District Court judges for the Virgin Islands.

Clearly, therefore, Mr. Chairman, we hope that you and the Committee see that there is no attempt by the proposed Constitution to create an interim court that will have infinite duration. At the same time, we trust you will permit us to replace it with a permanent

local appeals court in accordance with the Constitution, as you have done with respect to other local matters.

I would also note, Mr. Chairman, a striking similarity between the proposed subsection (b) of Section 23A to the provision contained in Public Law 95-157 relating to the Northern Mariana Islands. What may be good for the Northern Marianas was determined by the people of the Northern Marianas. Moreover, it must be noted, Mr. Chairman, that federal law with respect to the Northern Marianas merely implemented Article IV of the Covenant to Establish a Commonwealth of the Northern Marianas as approved by Public Law 94-341 and the people of the Northern Marianas in 1975. It also was passed to reflect the wishes of the people of the Northern Marianas and the Constitution they approved in 1977. We merely ask you to give us the same opportunity.

Mr. Chairman, the delegates to the Constitutional Convention thought long and hard about this provision of the proposed Constitution. They opted for the creation of an interim appellate court or appellate division of the District Court, if you will. They made that choice knowingly, fully aware of the problems encountered in obtaining support from the voters of the Virgin Islands. When you, the Senate, and the House acted favorably on House Joint Resolution 238, the clear indication from this Committee as well as from the full Senate, the House of Representatives, and the Administration, in the person of Ruth G. Van Cleve, Assistant Secretary (Policy), Territorial and International Affairs, Department of the Interior, was that Congress would, in approving the Constitution, take all steps necessary to fully implement it. While there are changes that President Ross

has proposed today to make certain that some provisions that have been questioned will withstand attack in the courts, we realize that there was no commitment on Congress' part to enact such changes. Specifically, I make reference to our request that those portions of the United States Constitution made applicable to the Virgin Islands by Section 3 of the Revised Organic Act be made inapplicable to those provisions of the Virgin Islands Constitution that provide residency requirements for the purpose of establishing Virgin Islands citizenship, the right to vote, and eligibility for public office. While we hope the Committee will adopt this request, too, we recognize that this Committee made it very clear that it believed this to be an area that concerns federal relations, but Senator McClure said that was an area that would not be foreclosed.

We do believe, though, Mr. Chairman, that while we have always recognized that Federal legislation and amendment of the Revised Organic Act of 1954 was necessary to implement fully the proposed Constitution, and particularly the Judicial Article and the Transitional Schedule, we have never been led to believe that this Committee or Congress would not act to so implement it. To the contrary, both the actions of this Committee and of the full Congress have led us to believe that Congress would fully implement the Constitution, including the Transitional Schedule. This Congress specifically refused to eliminate the interim court or to change it in any way when it chose to adopt House Joint Resolution 238 and reject Senate Joint Resolution 71. Congress, by that action, said loud and clearly to the people of the Virgin Islands that it would not change the Constitution as drafted. Consequently, the people

of the Virgin Islands are going to the polls on November 3 relying on those actions. The people, thus, are being asked to vote for a Constitution with a particular court system, but passage of S. 1674 will say to the people that the earlier actions of Congress are meaningless and are actions that we cannot rely upon. With all due respect, Mr. Chairman and members of this Committee, the time for changing the document, if it was to be changed at all, was when this Committee and Congress considered Senate Joint Resolution 71 and House Joint Resolution 238. Congress chose House Joint Resolution 238 and the people have proceeded in reliance on that action.

Our belief that we could rely on that action and that Congress would merely perform the ministerial act of adopting implementing legislation also was fostered by the actions taken by the Administration and Congress with respect to the Third Constitutional Convention's work as well as the May 8, 1981 statement of Mrs. Van Cleve. You may recall that she said, and I quote, "this is not the constitution that would have emerged had the task been granted to the executive branch to do so. But that point is monumentally irrelevant because it was Congress that chose to place this task where it belonged, in the people of the Virgin Islands."

While we recognize that we are asking for assistance from the federal government in the utilization of the two federal judges, it certainly asks no more than the proposal now before the Committee. We respect the Committee's judgment and views. But we also hope, consistent with the statements by the members of this Committee, that you will permit us to proceed with ratifying a Constitution as drafted and permit its implementation as drafted. In that manner we believe that Congress will be honoring its commitment, made some

time ago, to vest in the Virgin Islands full control over local self-government.

We trust, therefore, Mr. Chairman, that you will accede to our wishes and permit the people of the Virgin Islands to vote the Constitution of the Virgin Islands up or down as it is drafted, knowing full well that when they vote for it, they will be getting exactly what the delegates of the Fourth Consitutional Convention approved.

Thank you, again, Mr. Chairman, for your time, your consideration, and the opportunity to appear before you.

ARTICLE VII

THE JUDICIARY

Section 1. Judicial Power. The judicial power of the United States Virgin Islands shall be vested in a Supreme Court and such other courts as the Legislature of the Virgin Islands may establish.

Section 2. Supreme Court. The Supreme Court shall be the highest court of the Territory. The membership of the Supreme Court shall be determined by law and shall consist either of the two United States district judges of the United States District Court of the Virgin Islands and the Presiding Judge of the Virgin Islands appointed under Section 5 of this article; or of three judges appointed under Section 5 of this article.

Section 3. Jurisdiction of Courts. The Supreme Court shall have appellate jurisdiction to review the judgements and orders of the other courts of the Territory to the extent provided by law. The Supreme Court and all other courts created pursuant to this Constitution shall have such original jurisdiction as shall be provided by law. [Decisions of the Supreme Court on questions arising under this Constitution and the laws of the Territory shall be final, except as Federal law may provide for review of such decisions by the Supreme Court of the United States. Decisions of the Supreme Court on questions arising under the Constitution, laws or treaties of the United States may be appealed to the United States Court of Appeals for the Third Circuit unless otherwise provided by the Congress of the United States.]

Section 4. The United States District Court of the Virgin

Islands. Nothing in this Constitution shall in any way affect or diminish the jurisdiction and powers of the United States District Court of the Virgin Islands, except that such court shall have no original or appellate jurisdiction over cases arising under this Constitution or the laws of the Territory, except in cases arising under federal diversity jurisdiction. This section does not affect the capacity of the district judges of the United States District Court of the Virgin Islands to sit as justices of the Supreme Court as provided in Section 2.

Section 5. Appointment of Judges. The Governor, with the advice and consent of the Legislature of the Virgin Islands shall appoint all judges to the courts created by this Constitution or by law of the Territory. Should the Supreme Court include two district judges of the United States District Court of the Virgin Islands, the Chief Judge of the Supreme Court shall be the senior district judge. Should the Supreme Court consist of three judges appointed pursuant to this section, the Governor shall designate one as the Chief Justice. The other members of the Supreme Court shall be designated Associated Justices. The Governor shall designate one judge appointed pursuant to this section as the Presiding Judge of all courts other than the Supreme Court.

Section 6. Qualifications of Judges. No person shall be eligible for judicial office unless he is a citizen of the United

States and shall have practiced law in the highest courts of a jurisdiction of the United States at least five years prior to his appointment. No person who holds judicial office in the Territory under Section 5 shall hold any other paid non-judicial office under the Government of the Territory or the Government of the United States. Any judge who files or otherwise announces his candidacy for non-judicial elective office shall thereby forfeit his judicial office.

Section 7. Terms of office. All judges appointed pursuant to Section 5 of this article shall hold their offices for terms of eight years.

Section 8. Removal from office. All judges appointed under Section 5 may be removed from office for disability or misconduct while in office as provided by law.

Section 9. Rule making. The Supreme Court shall make and promulgate rules governing its administration, practice and procedures.

HENRY L. FEUERZEIG: Ladies and gentlemen, the meeting of the Judicial Powers Committee will come to order. Would the Secretary please call the roll.

Henry L. Feuerzeig - here
Kwame Garcia - here
Otis L. Felix - here
John James - here
Adelbert Bryan
Clarice Bryan - here
Stedmann Hodge - here
Denise Richards - here

DELEGATE FELIX: A quorum present, Mr. Chairman.

DELEGATE FEUERZEIG: We will dispense at this time, with the pleasure of and with the consent of the members, with the reading of the minutes. I have distributed a number of things which you can review rather than read. I have xeroxed all the correspondence so that you will have it, and unless there is objection at this time I would like to turn the floor over to Judge Almeric Christian, who has consented to be with us. We will be able to go until approximately 2:45. Judge Christian, it is a pleasure to have you with us and we appreciate your taking the time. We would be happy to hear anything that you care to say regarding the Judicial Article of the Third Constitutional Convention, flaws that you see in it, and any other suggestions that you may have and any other wisdom that you can impart to us at this time.

JUDGE CHRISTIAN: Thank you very much, Mr. Chairman. It is a pleasure to be with you all. To go directly to the matter at hand, let me say first that I have always been very strongly in favor of a full judicial system for the territory. I know that the argument is made in some quarters that we do not need one, in other quarters that it would be too expensive, and several arguments along those lines, none of which carries any weight with me personally. If indeed we are seeking full autonomy for the Virgin Islands as a government, it can never be achieved so long as the third branch--the judiciary--lingers behind the legislative and executive. So I want to say, whatever else I say, please understand, that I very strongly favor the creation of a territorial judicial system with a supreme court at the top and such intermediate and lower courts as the Legislature may ordain.

Speaking generally about a constitution, I would like to endorse the statement that many have heard that a constitution should not be an instrument of great detail, but rather one of very broad outline, setting forth the guidelines within which the law-making body will then act. And I think that is one of the flaws of the Constitution as drafted by the Third Convention, and in my view it appears in come of the sections of Article VI as it was then proposed.

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Running down the article in order: Section 1, Judicial Power. it is my opinion that it should provide, in turn, for no more than the supreme court and then end the rest and just the general language that follows "and such other courts of limited or less jurisdiction," or however you want to word it, as may be established. I do not think it is wise to put in a provision in the Constitution for a territorial court, as such, because once it is in the Constitution we are, so to speak, stuck with it except insofar as the Constitution may be amended and a constitution is not a document that should be amended with any great frequency. If it is, the chances are that it is not a good constitution. The name Territorial Court is one that I have never agreed with. I opposed it when it was so designated and I still think it is a poor name for the court. All of the courts in the Virgin Islands are territorial courts, so to speak, and at that time I favored the name of Superior court. But whether it be dubbed Superior Court or Territorial Court I do not think it has any business in the Constitution.

The second section I have a minor comment on that. I would not in this portion of it speak of the original jurisdiction of the Supreme Court. I am later going to discuss another proposed draft and there I will show at least how one group of persons thought it should be worded. I do not understand in this context what they mean by original jurisdiction. It isn't going to be a trial court, it is really going to be an appellate court, and original jurisdiction might be in just some very special cases.

In Section 3, once again I think it's too specific to refer again to the Territorial Court. I think all the courts below the Supreme Court should be left for legislative action and not be in the Constitution. Here again, I would suggest that if we end up with a presiding judge that the presiding judge be not simply the judge of the Territorial Court as we now know it or as however it will be called, but rather the presiding judge of all courts beneath the Supreme Court.

Section 4(a). This is only a personal opinion. I do not favor the judicial commission. And if indeed we are to have a judicial commission I think it should be established by the Legislature and not in the Constitution. Further, if we are to have one, my strong urging would be that it be constituted by persons appointed by the Governor and approved by the Legislature. My reason for that goes back to my belief in something Alexander Hamilton said in the Federalist about the reliability of the electorate. I am sorry but the electorate is too often swayed by oratory, political considerations, and what have you, and I do not believe that if you are going to have a judicial commission with the duty of nominating persons to fill judicial vacancies, censoring judicial officers and removing judicial officers it is my fear that persons elected in a purely political process would hardly be the ones in the best position to rule on such matters. And if we are to have a commission and if it is to deal with the removal of

judges, I think in fairness to the judges, the vote should be by two-thirds and not by just a simple majority. Throughout all of this we must bear in mind that when you ask an individual to give up his practice and to take on a judgeship, particularly for a limited term as we are bent on providing, there should be some assurance to that individual that if he is to be removed and cast back into the practice of law again there should be as many safeguards against abuse as possible, and one of them for me would be a requirement that a two-thirds vote of the commission should carry any such action.

Under b, I think there is an omission here. It says that the Governor shall appoint with the advice and consent of the Senate each justice of the Supreme Court and judge of the Territorial Court from among the candidates. Now, since I believe it would be wise to provide that the judicial powers shall be vested in the supreme Court and such other courts as the Legislature shall ordain, since the Legislature may choose to ordain not only a territorial court, but lesser courts, this article would not provide for that appointment, and I think that's just an omission.

FEUERZEIG: You think it should.

JUDGE CHRISTIAN: It should.

CLARICE BRYAN: I missed that.

FEUERZEIG: What he is saying, as I understand it, is that if there are other courts as provided by law created under Section 1, there is no provision for how they shall be selected. And he is saying that should be included under this section as well.

JUDGE CHRISTIAN: Right. Now, Section 5. Here is something I have had a constant battle with my friends in politics with, and it goes back to what I said just a little while ago. Six-year terms and eight-year terms for a qualified person to leave his practice, I don't think is fair. It limits the number of good men who will undertake it. I think if we are going to set up a proper operational mechanism for removal of judges, then we should consider longer terms, either as it is done in some states, a long term of fourteen years or so and then no reappointment, or I have no objection to life tenure during good behavior so long as we have adequate procedures for removing judges who for one reason or another need to be removed as may happen from time to time, present company excepted.

JOHN JAMES: Is that a suggestion you may not be on good behavior?

FEUERZEIG: No, me.

JUDGE CHRISTIAN: Section 6. Here again I do not think my view is very popular, but I will state it anyway. I don't think five years is appropriate to say if a person has practiced in the highest court of the jurisdiction for five years he should go on the bench. What if we are talking about the five years immediately following his admission to the Bar, he may not have the experience and yet he is qualified and might just be named an appointee. We must not forget that we are talking about a judicial system that may end up, except in cases of certiorari or federal cases, the sole resort that we have to the law, and I think we should make every effort to get the best possible persons, and, therefore, I think that five years of practice is not sufficient qualification. I know that although it is not stated in writing any where, when the ABA is investigating possible nominees for the federal bench they make an attempt, although at times for reasons which the senators think are better, they don't do it, but the general effort is, if it is a lawyer who has not before held judicial office they try to see to it that he has had fifteen years of good practice, varied practice. You have to answer some very detailed questions about the nature of cases you have participated in so that they can see that you have had broad experience and I think that we should attempt something along that order. So in considering it, that five years, I think should be raised, but my biggest quarrel with it, and I know that in the last Convention someone who was on the floor had asked my opinion and I had stated it and he at that time proposed it and was clearly shouted down. I see absolutely no rhyme or reason for a provision that says to be a judge in one of our courts you must have been a bona fide resident of the Virgin Islands and licensed to practice law. I think that is a horrible idea; it so severely limits the field from which you can draw that you start off with a position that is not likely to insure the best men on the bench.

If you don't believe it, just consider the delay the present Governor is having in naming a judge to the Territorial Court now. And having helped the late Governor King when he was judge hunting, I know it is not easy to persuade good men to leave a lucrative practice for the bench. And what I am saying is if we have the number of years which the person could have practiced in the highest court of the jurisdiction from which he or she comes, that ought to be enough. A strong argument that carried that day in the last Constitution, as I understand it, I heard, and I heard member Turnbull expounding on the radio, was that we should have judges who understand our people and who know our culture. That has nothing to do with the law. The law is the law and in Anglo-American jurisdictions it is generally the same and you don't need to understand the people to find the law and apply it. That argument is rendered ridiculous when you consider we hire doctors from anywhere and from cultures as far different from ours as you can imagine. We got Chinese doctors, Korean doctors. We trust our

children in the schools to people from every state in the union and from neighboring islands. We entrust our health to nurses and, well, we entrust our souls to ministers and priests who don't come fron here and I don't see why we should do this for the law. If the fear is that we are going to be picking outsiders over qualified natives, it is a fear that I don't share because I don't think any Governor in his right mind if he is the appointing officer, is going to go to New York for a judge and leave qualified, willing applicants here. And if the Governor is so outrageous, I doubt that he will get two-thirds of the Legislature to go along with him. So I don't see why we should keep this provision in there. As a matter of fact right now you can have a Governor who was not born here, can't you? And you don't have to be born here, you must have resided here for some time, to be in the Legislature and I don't think it needs to be as long as five years, if I remember correctly. So I would strongly urge that that provision not be repeated.

FEUERZEIG: While you are on that section, judge, do you make any distinction or would you make any distinction between the Supreme Court and any of the other inferior courts that may be created, in terms of time for practice?

JUDGE CHRISTIAN: Time for practice? I would say nó, because I do not contemplate going back ever to something like a police court. We may have some other court on a tier lower than our present territorial court, but I believe that the matters they will be handling will be of sufficient complexity and would require sufficient legal knowledge that they should all have a strong background of practice before they get on the bench.

FEUERZEIG: And your recommendation is how many years, fifteen?

JUDGE CHRISTIAN: Well--it doesn't have to state fifteen, but if you have a judicial commission they should look for it. If it says ten, that is fair, but as I said, the ABA tries to--in recommending to the President--they hesitate to recommend anyone with less than fifteen in the absence of some strong political pressure. And included in that fifteen years could be years on a state or county bench, but five years fresh out of law school I would oppose that.

What is said in Section 7, is fine. I believe it would be better in the Constitution as an added sentence in the section which speaks on the appointment of judges.

I have no quarrel at all with Section 8, the thought in Section 8, I believe, for reasons which I will mention, that the draft that I am going to distribute in a minute does a better job of it.

Section 9. I would just make a slight change. It says here that the Supreme Court shall adopt, etc, etc., governing the admission and expulsion from the practice of law in the Virgin Islands. That statement is a little too broad because once you get your Virgin Islands judicial system you are going to have two sets of admissions. You are going to have an admission to practice in those courts and admission to practice in the District Court and this seems to speak of practice in the Virgin Islands generally and it really means practice before the courts of the Virgin Islands.

Section 10 has a contradiction to me in it. The chief justice of the Supreme Court shall be responsible for the day to day administration of that court and all other courts established by law. Then it says the presiding judge shall be responsible for the day to day administration of the Territorial Court. So that we do not get into confusion as to who has the oversight of the day to day operation of the Territorial Court that should be cleared up.

FEUERZEIG: You feel that we need that section at all?

JUDGE CHRISTIAN: As to the administration?

FEUERZEIG: Yes.

JUDGE CHRISTIAN: I think so.

I am going to hand out some copies of a draft. I have been saying some favorable things about the draft. It is not my draft, so I am not taking credit for the authorship nor am I exuding any pride in it or that sort of thing. I just was a contributing advisor to the group.

When the third constitution was being proposed, the late Governor King had intended to prepare and submit a full draft of the Constitution as his submission, and for that purpose we assembled and these people worked at it free of charge. A group of lawyers, practicing lawyers, judges and law teachers in the United States, the names, many of them escape me but they were persons who were doing this as a favor to him. The Chairman of the group was Solicitor General Bjork who was a very well thought of person in the legal field. I do not know what happened to the rest of that draft. As a matter of fact it was never completed since the Governor died, but I rescued portions of the judicial section from Mr. Peter deZela before he left. This is what we had come up with. The presiding judge of the Territorial Court and I sat in with them and we both had our little say. You'll notice the first article simply says that, "The judicial power of the Virgin Islands shall be vested in a supreme court and such other courts as the Legislature of the Virgin Islands may establish." This follows the pattern of the United States Constitution

and it gives the Legislature of the Virgin Islands the free hand to do whatever it wants beneath the Supreme Court and that is what I was trying to say in the beginning. And then it talks of the Supreme Court being the highest court in the territory, the membership to be determined by law, and I raised the question and Judge Hodge agreed with me, that at the outset it is going to be rather expensive, and that is why we came up with this idea. The membership of the Supreme Court shall be determined by law. That means the Legislature will do it, but as a stop gap measure we proposed that if the Legislature felt that in giving effect to this section they could not afford to start a Supreme Court with three justices right away. They could do it with the two judges of the District Court and one judge of the Territorial Court. And we have suggested the Presiding Judge, and take him then off the trial division of the Territorial Court. It goes on to say that if the two District Court judges are sitting then the senior judge of the two will be the Chief Justice of the Supreme Court as it is thus constituted, and it leaves it open for the Legislature, at any time, to decide--well, all right, we are big enough to take it on ourselves now. Thank the District Court judges, we don't need them anymore. I think it half way answers the question of those who are trying to say it is too expensive, because two of the judges you won't have to pay for. Presumably you'd be using that building and its facilities and as an interim measure it might be worth considering.

FEUERZEIG: Along those lines, what would be your reaction to the possibility of combining that, or simply the Legislature, or the convention draft providing that the Legislature would provide for a phased in type of program of appeals of specific cases and in the switch from the federal District Court to the courts established by law becoming the local trial courts on a gradual basis as, for example, as was done in the District of Columbia.

JUDGE CHRISTIAN: I have no experience with that. I am not aware of that. How do you mean phase it in?

FEUERZEIG: Well, what they did was, for example, the big concern was not so much with the question of appellate jurisdiction because of the number of judges that would be required. That I gather is not going to be the costly factor just in terms of number of judges, secretaries and law clerks, there is not any substantial sum of money. The trial court that I gather is what they really got concerned about. Taking all of the jurisdiction over local matters out of the federal court, putting it into a strictly territorial court, superior court of general jurisdiction. That with the juries and everything would be the cost item.

JUDGE CHRISTIAN: Well, we have practically that now.

FEUERZEIG: Well, only up to $50,000 and only in felonies up to five years. In the District of Columbia they phased it in and phased the District Court out as they phased out the court of general sessions, and phased in the Superior Court--over a period of five years--where all of the jurisdiction that was strictly

local in nature, over a five-year period, was transferred to the Superior Court of the District of Columbia.

KWAME GARCIA: I'm wondering if your proposal for the two district court judges would require Washington approval.

JUDGE CHRISTIAN: No, I don't think so. Well the whole thing requires Washington approval, but it would not require any special approval. I don't think so.

CLARICE BRYAN: Mr. Garcia, if this Constitution passes, it will need Congress' approval.

JUDGE CHRISTIAN: Yes, yes. Now for the jurisdiction of the court. We have decided that we should have appellate jurisdiction to review judgments and orders of the other courts of the territory to the extent provided by law. It shall have the power, pursuant to this Constitution, to have original jurisdiction as provided by law if the law so provides. Decisions of that Supreme Court, as we contemplate it, shall be final. It would then be like the Court of Appeals in New York or the Supreme Court of ant state, and we would have to go to the Supreme Court hat in hand with an application for certiorari, if you wanted any higher review. But we did think that if there were federal questions involved, to insure some review other than on a local level, the Constitution might provide for appeals to the Third Circuit. Otherwise in the bulk of the cases, once the Supreme Court has spoken that's it, because we all know that the Supreme Court of the United States is not busy looking for additional cases. They are very tight fisted in granting writs of certiorari. As it is now, really, our highest court is the Court of Appeals. It is seldom- when last did the Supreme Court of the United States approve an application for cert from any of our decisions?

We thought it should be clear, so that there would be no doubt about it, there would still be a District Court of the Virgin Islands, and that's all that other section provides.

FEUERZEIG: You say except in cases arising under federal diversity. What is your intention in saying that?

JUDGE CHRISTIAN: Nothing in this Constitution shall affect or diminish the jurisdiction and powers of the District Court of the Virgin Islands except that such court shall have no original or appellate jurisdiction over cases arising under the laws or constitution of the territory except in federal diversity cases. In other words, local matters would only come in the District COurt if it involves citizens ...

FEUERZEIG: Diversity would be retained is the intention of this?

JUDGE CHRISTIAN: Right. I might say to you that here is a catch. There is a big effort in the United States now to abolish diversity jurisdiction in all district courts, and if that goes

through then I fear the District Court of the Virgin Islands would have nothing to do.

FEUERZEIG: Well, I have handed out to the members the federal task force recommendations, which had three options. You have it among your materials and in my comments to Presiding Judge Hodge on it, which I also have given you one of my strong recommendations, and I am hopeful that the task force will accept it, the Governor accepted it, is that if there is any change in the court structure that diversity jurisdiction be retained by our District Court even if it is abolished in the federal system.

JUDGE CHRISTIAN: You need something like that or I will just have to get a set of golf clubs to finish out my term on the links, which is all right. We thought it bert to leave it as it is now with the Governor and the Legislature. There is a strong movement in the states for judicial commissions. I know that Judge Marsh was very strong on this and I am not strongly disposed one way or another. It was just that we felt that this works as well as any.

Qualification of judges. I think I was successful in getting the group to eliminate the residence requirement. See how we worded it: "No person shall be eligible for judicial office unless he is a citizen of the United States and shall have practiced in the highest coyrts of a jurisdiction of the United States for at least five years. They thought five years was required, but they took out the residency requirement.

Here is how we took care of the matter of other offices and political office. "No person who holds judicial office in the Territory under Section 5 shall hold any other paid non-judicial office under the Government of the Territory or the Government of the United States. Any judge who files or otherwise announces his candidacy for non-judicial elective office shall thereby forfeit his judicial office." This was a sentence fashioned by Mr. Bjork. He said that if they want to draft a judge for elected office, the way it is worded, this, or the Third Constitution, he immediately has to leave. If the draft fails or after he is drafted, let us say, by one party, he loses, he is out of a job. This way he has not filed and it would permit him to continue in judicial office so long as he didn't actively campaign until such time as he is elected. That was his idea. He felt that in a place of this size where someone might want to draft Judge Feuerzeig to be Governor, for example, while he is not unwilling to be Governor he doesn't want to get into the political thick of it, this would solve the problem. If he declines he still is the judge. If he says I don't want it, however strong the draft, that ends the draft.

JAMES, Well, if someone wants him out of the judgeship and there is a draft for him, it doesn't say ... says not me.

JUDGE CHRISTIAN: Well, if he declines, he still is a judge. We don't have to put him there unless he declines because it's

understood, if he says I don't want it, however strong the draft, that ends the draft.

CLARICE BRYAN: Judge Christian, can I ask you, I thought you said five years was not enough. On this it says five years.

JUDGE CHRISTIAN: I have it. Five years was nothing else but my personal view, but the group felt five years was satisfactory, as did the past constitutional convention. Maybe five years is fine. I just don't think so.

STEDMAN HODGE: That's because that would also provide then with the five years that an individual who passed the bar could immediately submit his papers say to the Third Circuit, who is admitted before the Third Circuit, could be elected to a judge in five years, even though he might not have practiced before the Third Circuit.

CLARICE BRYAN: And he, according to this, he may not have practiced here at all.

HODGE: That's correct.

JUDGE CHRISTIAN: This is the draft that we have proposed.

CLARICE BRYAN: In other words, someone could practice in a probate court. That's all he ever did, in Florida for five years. He never had-- did anything else. He comes to the Virgin Islands and he's admitted to the Third Circuit Court and the next morning he's on our Supreme Court. He doesn't know anything about any other type of ...

JUDGE CHRISTIAN: There's some lawyers here who do almost exclusively probate and matrimonial work.

C. BRYAN: Yeah.

CHRISTIAN: You can say the same thing about them and they've been here much more than five years.

C. BRYAN: Well, that's why I think there ought to be something more, well --

CHRISTIAN: Well, let me hear your view. Why ...

C. BRYAN: There ought to be something that talks about a varied practice before you jump on a bench.

FEUERZEIG: Is not this a decision that should be made by the commission or the selecting body?

CHRISTIAN: The selecting body, surely --

FEUERZEIG: And not be written into the Constitution.

CHRISTIAN: Surely.

FEUERZEIG: I don't disagree with what you are saying. But I think, he disagrees -- but I think the question is do you put it in the Constitution and tie everybody's hands.

CHRISTIAN: Exactly.

C. BRYAN: Well if you don't have a nominating commission anywhere, you leave it up to the discretion of the Legislative body to create what? If they refuse to create one then we are back where we are now, that nobody looks at judges until they get on the bench.

CHRISTIAN: That isn't correct. The Legislature has to approve the appointment and they seem to question some people very intensely.

C. BRYAN: But Judge I just go back to what I'm saying. To me there ought to be some safeguard.

CHRISTIAN: What would you say?

C. BRYAN: I would say you create a nominating commission in the constitution. Now if you want to leave all the details of the nominating commission up to the Legislature, you see what I'm saying? But you provide in the basic document that there will be one.

FEUERZEIG: You're not quarreling strongly with that, are you? Your quarrel is only with the question of whether you put into the constitution whether you must be a resident, you must...

CHRISTIAN: No, that's not her point.

C. BRYAN: No, a different thing. Who makes the choice of the names of people that go to the Governor. As it stands now we have nothing. The Governor may put his best friend on the bench after five years of sitting in his office doing probate work. The only stop you have is this; the only input from the public after this are the members of your Legislature. As it sits now, nine out of how many can put--nine and the Governor can put a person on the bench in the Virgin Islands with no background in practice. That's what I am saying. You see you have a specialist who does no trial work, for example, climbing up on the bench because the Governor knows him and any number of the Legislators, sitting at any particular meeting, it doesn't have to be a majority. If three members of the Legislature are not there, how many people can put him in, Mr. Felix? Tell me. I don't know the members any more, I don't pay any attention, but it seems ...

CHRISTIAN: How would the commission remedy that?

C. BRYAN: The nominating commission would be in the Constitution, which means you would have to have one. Now if you want to--

CHRISTIAN: I know, but given a commission how would they remedy the flaws you are raising?

C. BRYAN: Because according to the way it is set up in the Constitution now, the nominating commission would send the names to the Governor.

CHRISTIAN: I know, but suppose they send the same man you're talking about?

BRYAN: Well, he might be in there, but they also have the opportunity, and they have the duty under this. You understand what I am saying?

FEUERZEIG: But is this duty any different, I think is the point the judge is suggesting. Where is the person with the authority, is he going to act responsibly or isn't he?

C. BRYAN: The difference is that you have the input of the people before he's chosen and then you have a back log, back check in the Legislature. In other words, they, the people, get into the process first; then they get in it until the end so you have some sort of feeling.

FEUERZEIG: Mr. Hodge?

HODGE: How we do know who the six members on the commission will be. They don't necessarily have to be Virgin Islanders.

C. BRYAN: It says it shall be established by law. Now, we go back to the Legislature. How are they going to set it up. What I'm saying is that we've got this elected representative of the people in the process every step of the way.

CHRISTIAN: People don't become by any magic anything other than human beings simply because they elected them.

C. BRYAN: No.

CHRISTIAN: And the fact that you elect,--to me--you're more likely to run into the trouble you're talking about by just going to the general electorate and putting a majority of lay persons who know nothing about law, nothing about legal training, to select judges.

C. BRYAN: It says shall be established by law.

CHRISTIAN: Look, Ms. Bryan--

C. BRYAN: We have a basic philosophical difference.

CHRISTIAN: What is it?

C. BRYAN: Some people have a lot of hope that the electorate will always put some people in there who are responsible to the people. And some people have no hope that the people will ever put anybody in office who is responsible to the people. The fact that right now in the Virgin Islands there seems to be a feeling that the Legislators aren't accountable to the people, doesn't mean that that's the way the Virgin Islands are always going to have to be, and I don't think that's the way its always been. We have had, and we expect to have again, Legislators who sit in the Legislature who are accountable and go back and account for their work. What we are demonstrating here is sort of an acceptance of the breakdown of the people, that the people have no power.

CHRISTIAN: You miss the point altogether.

C. BRYAN: Well tell me judge your point.

CHRISTIAN: My point is that the system works best when we have, as in the case of federal judges, the President, on recommendation from a bar committee, or in this case, from the Virgin Islands....

C. BRYAN: Ha, ha.

CHRISTIAN: Well, are they any less capable than residents elected at random?

C. BRYAN: No comment.

CHRISTIAN: You are fostering a popularity contest, by people who may not...

C. BRYAN: I think the people ought to be involved.

CHRISTIAN: The people will be involved in the confirmation. The people will be involved in the nomination through their governor.

FEUERZEIG: The same way the people were involved when Mr. Harold Carswell was rejected and Mr. Clement Haynesworth was rejected for the U.S. Supreme Court.

C. BRYAN: The federal government has now established all kinds of commissions for the circuit court judges.

FEUERZEIG: I don't oppose a commission and I think that the point the judge is making is that don't say that because there's a commission you eliminate the problem of having poor judges or poorly qualified people.

CHRISTIAN: Exactly. I don't care what you call it; you're going to have some agency to name a group of persons to the appointing authority, but I'm just saying not the way it is here, and don't have it in the constitution. I'm not saying don't have it.

C. BRYAN: It says, your Honor, a judicial commission shall be established by law.

FEUERZEIG: If we were to stop there, what would be your reaction?

C. BRYAN: If we stopped there?

FEUERZEIG: If we just put a period there. A judicial commission. . .

CHRISTIAN: You can't stop there.

FEUERZEIG: Well, with the powers that the commission would have, to recommend, to nominate, to remove upon a vote of such and such.

CHRISTIAN: And if you put it in you still have to say how you are going to constitute that commission.

FEUERZEIG: As established by law. The Legislature would determine that.

CHRISTIAN: I think that's useless.

JAMES: May I comment very briefly on that. There seems to be a feeling that there should be something separate and apart from the Legislature, if you approve this. Then if you leave it to the Legislature as to how they will constitute the commission, I think it simply gives more people more Government jobs to do the same purpose.

C. BRYAN: Well, they are not going to do that every year, because if you give them a term, suppose you give them a life term. They are going to do it once in their life, you know, with respect to that, judge, unless he resigns. But how often do you think this judicial commission is going to do any work?

GARCIA: It seems to me that the judicial commission is more democratis because you involve the people, but the risk is that you will get all sort of people who will not know what the courts...

CHRISTIAN: Miss Bryan just made reference to the practice in the Carter Administration to have nominees screened by a commission...

C. BRYAN: That's right.

CHRISTIAN: That's fine. But that commission is a commission named by him, and they're all lawyers, and they are people, then, who are in a position to determine qualifications of lawyers for the bench. When you just get people generally chosen from the electorate, I maintain they have no such qualification.

C. BRYAN: Well, I said judge we have a basic philosophical difference of opinion. You don't rely on the people as much as I do.

HODGE: I would add that if you do have a commission that you would make it, say, mandatory, that you would have on the commission, say composed of six, at least three should be trained in the law.

C. BRYAN: Well that's why you see, you say established by law, you leave that up to your Legislature.

HODGE: But the Legislature might not put it in.

FEUERZEIG: That's exactly the concern.

GARCIA: Well that's the risk you take, I guess.

FEUERZEIG: Judge you wanted to ...

CHRISTIAN: I see the Senator wanted to ask a question. I don't know if you're taking questions from the outside.

SIDNEY LEE: I didn't understand on page 3, under qualifications, when you said that a person could be a citizen who has practiced law in the highest courts of the jurisdiction of the United States that the first rough thought -- I thought that you meant it would have had to be a judge. What do you mean by someone who has practiced law in a court of high ...

CHRISTIAN: A person who has had a general practice of the law if he is in New York, throughout the court system of New York, up to the Court of Appeals, which is the highest court. That is all I mean.

LEE: Now, in the Virgin Islands, as I understand it, for local matters as well as federal matters you are thinking in terms of a trial court and an appeals court.

CHRISTIAN: Initially.

LEE: Initially. Why wouldn't someone who has practiced in an appeals court say in a very large state like California, but not the Supreme Court of California, be eligible where there is a three tier system.

CHRISTIAN: If I understand your question it is that if a person has practiced in the other courts of the state, but not the highest court?

LEE: Yes, where there is say three levels of local courts.

CHRISTIAN: Well, if he has gone through all three levels he is sure to have a broader background.

FEUERZEIG: This doesn't, as I understand it, doesn't say you have had to practice for five years immediately preceding, it says five years preceding. So presumably any person that was in that position before he was put there could have practiced for five years.

CHRISTIAN: Yes.

FEUERZEIG: For example, the one that Judge Hodge used so often during the last Constitutional Convention was if Justice Thurgood Marshall decided to retire to the Virgin Islands and the Governor wanted to appoint him to the Supreme Court, why shouldn't he be allowed to if he wants to serve. And that would permit this under this provision.

CHRISTIAN: Right, but as established he would have to practice five years here first.

FEUERZEIG: Under your provision.

CHRISTIAN: No, under the terms of the Third Constitutional Convention.

GARCIA: Wouldn't it be better--it would seem to me the people of the Virgin Islands are concerned--particularly people who live here who intend to live here for a long time--and their losing all their institutions--shouldn't there be something in the Constitution to maintain some stability in the culture. I don't have any examples such as Thurgood Marshall. But even Thurgood Marshall if he could step in the Virgin Islands and be a judge, it seems to me that something is too loose.

CHRISTIAN: Why?

GARCIA: Why?

CHRISTIAN: Yes.

GARCIA: Because the Virgin Islands seems to be a special place.

CHRISTIAN: Why does a judge have to be a part of the culture to administer the law? The law of, let us say homicide, is virtually the same throughout the United States.

GARCIA: Yes, but I was not looking just at the Supreme Court, but the courts in general.

CHRISTIAN: If you have a products liability case, as a matter of fact, a lawyer trying a products liability case here, he looks to California, Michigan, Pennsylvania for precedence. He doesn't look to the culture of the Virgin Islands for it.

GARCIA: Does the Supreme Court or Congress of the United States reject certain judges because they come from the south, certain states?

CHRISTIAN: Well, that is a different problem.

GARCIA: Well, that is what I was looking at.

C. BRYAN: That's culture?

GARCIA: I believe a judge--Thurgood Marshall is a good case--because he is one of the judges that I admire. But if he really wanted to be a judge in the Virgin Islands he should come here and live for a couple of years.

CHRISTIAN: Well, I know that is the feeling, but I don't see any merit in it. I just express a personal view. You may be right.

FEUERZEIG: May I just ask for the record if you are going to ask a question identify yourself so that when it is transcribed it will be reflected.

DENISE RICHARDS: Under the section of hiring judges, it says the Supreme Court should have two district court judges and the chief judge of the Supreme Court would be the senior district judge. The District Court judges would still be judges appointed by the President of the United States.

CHRISTIAN: That is correct.

RICHARDS: How do we get from the judges. Well, okay, under the District Court that is federal, that has to be done by the President of the United States.

CHRISTIAN: Right.

RICHARDS: Okay. But for establishing your own court, how can we get from instead of having the District Court judges, having our own local judges?

CHRISTIAN: Well, this is only a stop gap measure, in the event the feeling was that they could not finance the entire thing at the outset, because you see ...

FEUERZEIG: Doesn't your section 5 permit the Legislature, when it wishes, to say we don't want the District Court ...

CHRISTIAN: From the very start. The way this is worded, the Legislature may have a Supreme Court with three judges appointed; however, the Virgin Islands determines when they should be appointed.

All this section says, however, if as an interim measure we are not ready to do that, and since the feeling is that the appellate court should have not less than three justices, start with the two you now have and just add a third one until you get ready to make your own court.

GARCIA: Is this sort of a compromise? Reference to the District Court, so there wouldn't be a backlash from higher ups in Washington ...

CHRISTIAN: No. There was no thought of that. The only thought, as I said, is that it might be at the outset the Government of the Virgin Islands felt that it is desired ... let me back up. As things stand now, if somebody wants to appeal a Territorial Court decision, he appeals to the District Court. A single judge decides that appeal. Most legal thinkers feel that an Appellate Court should be in panels of three. If you are going to have a Supreme Court of the Virgin Islands you don't want a single judge deciding appeals. You want three. Three judges although it would be in a way an insignficant part of the expenses, salaries of three judges, chambers of three judges law clerks, secretaries for the three judges. It might be, we thought,

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that at the outset the Legislature says, we are not ready to expend all of that money at this time. Therefore, in the interim, let the three judges of our Supreme Court be the two District Court judges, who now have appellate jurisdiction anyway, joined by a single judge of the Territorial Court and there is your three judge panel. A year later, we find we have a great inflow of revenue and we can manage it, you thank the District Court judges, the Legislature says we're ready now for our own. That's it.

ADELBERT BRYAN: Judge Christian, in this essence then, do you see where section 7 says all judges appointed pursuant to section 5 shall hold office for eight years. Do you see a conflict there where the district judges in the United States are appointed for life as compared to district judges who are appointed for an eight-year term. Don't you feel that Supreme Court judges and the District Court judges should also be likewise appointed for life terms?

CHRISTIAN: I suggested before you came that if we are going to have the proper machinery to remove judges I will have no problem with appointing them for life. It is only when you have judges appointed for life and you have no proper way of removing them by other than impeachment which is a very lengthy and unsure process. But if you have means, a law set up by, to take them off the bench for good cause, I see no reason why they should not be appointed for life.

STEDMANN HODGE: What would be the appeal from this section 2 of your draft. Let us assume we have the two District Court judges and the judge from the now Territorial Court. What would be the appeal from a decision of that court?

CHRISTIAN: If it concerns a purely territorial matter?

HODGE: That would be the end of it.

CHRISTIAN: That would be the end of it unless the Supreme Court agreed to hear it.

FEUERZEIG: Supreme Court of the United States?

CHRISTIAN: Yes.

HODGE: And there would be a lower court below that so the hierarchy of the court could be say from the Territorial Court to the Supreme Court, or the --

CHRISTIAN: The Supreme Court, the Appellate Court--

HODGE The Appellate Court, and then to the U. S. Supreme Court if it's a federal matter...

RICHARDS: Or a constitutional matter --

HODGE: On a constitutional matter then you'd go in the District Court and the appeal would be from that to the Third Circuit.

CHRISTIAN: No, but under this, if you had a federal question or constitutional question which was decided in a Virgin Islands court and that was appealed to the Supreme Court, you would then have an appeal to the United States Court of Appeals for the Third Circuit, an appeal as a matter of right.

C. BRYAN: As it is now?

CHRISTIAN: As it is now.

FEUERZEIG: You could file a constitutional action in the Territorial Court if you choose--

HODGE: I thought I was under the impression, that if we are going to be setting up our own system then the federal system or anything dealing with the Constitution and laws of the United States would begin. The District Court would have complete jurisdiction--

CHRISTIAN: Not necessarily.

FEUERZEIG: It wouldn't necessarily. Because if it involves interpretation of a local constitutional question, also involving a federal constitutional question, the local court can still hear the case.

CHRISTIAN: Right.

FEUERZEIG: And make the decision and be appealed the same as in any state court system now. What this draft suggests is that in those cases you put in the third level.

CHRISTIAN: Right.

FEUERZEIG: To the United States Court of Appeals for the Third Circuit.

CHRISTIAN: Giving an appeal as a matter of right because but for that then you would have none except to the Supreme Court in the limited number of cases that it does grant cert.

C. BRYAN: In other words, if a question came up out of the Virgin Islands Constitution it would be decided by our Supreme Court.

CHRISTIAN: Yes.

HODGE: Yes, you would file it in our Territorial Court. Then it will go to our Supreme Court.

C. BRYAN: Unless ...

HODGE: ... and then it will go to the U. S. Supreme Court.

C. BRYAN: Right. Unless it also involves ...

CHRISTIAN: But if you keep saying it would go to the U.S. Supreme Court, you are making an assumption that isn't correct.

FEUERZEIG: Only if they take it.

HODGE: I mean, I am dealing with what would be the next court if,... if you made an appeal. I'm just making an assumption. Because what I still want to deal with, any case or controversy that's dealing with any federal matter. The court of original jurisdiction would be the U. S. District Court.

FEUERZEIG: Not necessarily.

CHRISTIAN: Not necessarily, that's what Judge Feuerzeig just explained to you.

FEUERZEIG: Not necessarily. It may very well still be the Territorial Court of the Virgin Islands. You can file a cause of action today in the Virgin Islands Territorial Court based on a federal question.

CHRISTIAN: That's right. You are not losing anything, as a matter of fact you are gaining.

FEUERZEIG: Exactly. Mr. Garcia you had a question?

GARCIA: Yes, I do. If a case involves a local matter and it goes to the District Court and it involves an appeal.

FEUERZEIG: It goes to the Third Circuit.

GARCIA: And this proposal ...

CHRISTIAN: It would take from the route to Philadelphia all purely local matters, yes.

C. BRYAN: All these boundary disputes and all of that that go up there, family trouble and ....

GARCIA: What about a Virgin Islands tax case?

CHRISTIAN: If the system remains as it is now where the taxes and the laws are administered under Title 33 of our Code that would be purely the Supreme Court of the Virgin Islands and certiorari applications. The circuit court would not touch that.

C. BRYAN: That's if you don't, if the taxing laws don't change.

CHRISTIAN: Right.

GARCIA: What about Hess?

CHRISTIAN: Well, it depends on, you see, Hess may present the same mixed questions of federal and local law.

HODGE: I still have another question. This deals with the ... let's say, assume that we know that the District Court will be sitting in this tripartite..,for the local government. Would the same judge be working in the District Court and still the Territorial Court judge hearing local matters?

FEUERZEIG: As I understand your proposal that is not the case.

CHRISITIAN: If he's asking will the judge of the Territorial Court who will be sitting with the two district court judges, will he be a trial level judge, I would say no.

HODGE: What about the judges from the District Court? Would they still be doing their functions? The functions that they are doing now?

CHRISTIAN: Yes.

FEUERZEIG: As federal court judges they would be the local Supreme Court judges and federal court judges in the true sense of the word.

CHRISTIAN: We would no longer be handling like a murder case.

HODGE: I see.

CHRISTIAN: We would only be ... if a criminal case, it would be in violation of Title 18 of the United States Code. We would no longer be touching Title 14 of the V. I. Code.

HODGE: Only when you sit on appeals in the tripartite.

CHRISTIAN: If two citizens of the Virgin Islands have a dispute over land or money or an automobile accident, it wouldn't come to us. It would be in the Territorial Court.

GARCIA: I admire that statement because it gets around the costs. But would it still give the President a hand.

C. BRYAN: It gives him two-thirds of the court.

FEUERZEIG: Until the Legislature speaks.

CHRISTIAN: It does, and if you have any problems with it, and I am the senior District Court judge, I would have no qualms about having the judge of the Territorial Court sit as the Chief Justice of the Supreme Court. I would be an associate. It doesn't bother me.

JACK JAMES: Judge Christian, could you tell us, in your last year or two, the last fiscal year, what percentage of the business that goes before the District Court now, is federal business? In other words, how much would be left if we were to adopt this procedure?

CHRISTIAN: I could not give you a percentage, but attorney, there would still be a lot left because virtually all of our troublesome civil cases, and by troublesome I mean those that involve study and research and any great trial effort, do not involve citizens of the Virgin Islands at most times. By and large it is some corporation from abroad with a local... Most of our civil matters would be, would have diversity jurisdiction because they are over ten thousand...

JAMES: If diversity goes out?

CHRISTIAN: Then we are out. I agree.

JAMES: What I am leading up to is this. If there's a relatively small amount of diversity cases and federal cases continue, do you believe that we will even have one, far less than two, federal courts?

CHRISTIAN: I doubt it. Already there has been talk about making us part of a district in Florida or part of a district in Puerto Rico, because it would not be feasible for the United States Government to be having two of us here doing nothing.

JAMES: So what I am leading up to, sir, isn't it a distinct possibility that if we adopted this and diversity went out, that instead of having local people such as yourself appointed to our District Court, our District Court will then be in Puerto Rico?

CHRISTIAN: It might well be. Because what would be left? You'd have the federal offenses involving interstate transportation of stolen securities or something like that, you would have all the immigration offenses, and it wouldn't be enough to warrant two of us. I agree.

JAMES: It may not be enough for one.

FEUERZEIG: And isn't there a good likelihood that given the situation, the whole reason for elimination of diversity is because all the other federal courts of the United States are just backlogged and can't do anything else but are trying to find time to get rid of the diversity cases, which would not be the case under the circumstances.

CHRISTIAN: Yes, but that would call for the Congress to make an exception that I am not sure they would be willing to make.

C. BRYAN: But if this is going to be a congressional act and we insist on retaining the diversity jurisdiction. You had two ifs in here, and any time I hear an if, I want to know the other side. If this comes before the Congress and we have clear guidelines from people in the judicial system pointing out that this is an English speaking jurisdiction, that Puerto Rico is a Spanish speaking jurisdiction, and I notice the other day that there is something in the Congress permitting Spanish to be the language in the district courts of the United States...

CHRISTIAN: That hasn't passed yet, though.

BRYAN: But it's in there. Which means there is going to have to be a study on this whole question of what happens to the diversity jurisdiction of the United States District Court in the Virgin Islands.

FEUERZEIG: There have been proposals before Congress for many years to abolish diversity jurisdiction.

C. BRYAN: The if that you are now talking about... You know, any time somebody says if to me, and you got it all made up, it's done, you have to wait until I see it happen and what is going to happen before. Now if the Virgin Islands is clearly saying now to the Congress about a judicial system. We do say to them, "Look, you can't just summarily take away our diversity because we are geographically that far away, look at the cost alone, to have all the people of the Virgin Islands in diversity cases going to Florida or going some place else with the whole problem when you know very well that the number of cases involving large corporations and all of that are increasing. They are not going backward. More corporations are coming in here, all of that.

CHRISTIAN: But then Judge Feuerzeig's suggestion solves it.

BRYAN: No. He says that if ... You know I am listening to Jack James. He says that if as if it's all done, and it isn't all done. What I am saying is if we at this point point out why we retain our...

CHRISTIAN: I don't think our constitution is the vehicle for that. It is as Judge Feuerzeig says, the legislation that is before the Congress now should include an exception when they abolish diversity jurisdiction except the Virgin Islands, Guam or whoever else they want to except. And that's how it should be handled. Because diversity jurisdiction as we spell it out here means the very one that they are trying to abolish.

C. BRYAN: What I am saying is that every section of this Constitution that changes a federal law--and that is why we prepare--and we did last time--other laws, other federal laws that have to be studied in relationship to any changes we do put in.

In this judicial area a lot of work was done the last time in determining exactly what would happen here with respect to what's before the Congress or what must go before the Congress before this becomes a reality. Which means you can't just sit up, and say if we do this, this is going to happen. Nothing is going to automatically happen. The Congress has got to make some other changes in other areas of the judicial article not only in the Organic Act, but with respect to other areas of the judicial jurisdiction.

CHRISTIAN: Be very careful with that phrase. You made a statement about the constitution changing federal law, be very careful about that.

BRYAN: I didn't mean that this automatically changes it, but what I did mean, which was in answer to Mr. Garcia's question of what happens. But a lot of collateral work has to be done in relationship to other laws that have nothing to do specifically with the Organic Act, because if you make a change some time somewhere else in other laws the Virgin Islands is being affected. And so before we just sit down and say this is going to happen automatically. It isn't going to automatically happen. People are not going to just sit down and say the Virgin Islands District Courts are going to disappear and go to Puerto Rico. They're not going to go anywhere until somebody sits down and says go. So that's the transitional period. It has to be made very carefully. It seems to me it has to be very carefully worked out.

FEUERZEIG: Mr. Bryan, you had a question?

A. BRYAN: I have a question. Judge Christian, do you believe that this question of diversity can be handled better in a Federal Relations Act, than, by, let's say excluding the Virgin Islands, as related to being included with other jurisdictions?

CHRISTIAN: I don't know what you mean by better--it can be taken care of in a Federal Relations Act, but as I understand it, there is none proposed at the moment. Isn't that true?

FEUERZEIG: There is a Federal Relations Committee...

CHRISTIAN: You have one that you are working on, but the Congress did not authorize one, nor did they ask for it. So that may not even consider whatever you do.

A. BRYAN: But I mean, if it is done wouldn't this be a better place as far as handling this question of diversity?

CHRISTIAN: No. I think the best place to handle it is where Judge Feuerzeig said. At such time as the Congress undertakes to abolish diversity jurisdiction, if it does, in that bill let

them make exception for us.

RICHARDS: Along the lines of Delegate Bryan. A statement was made to the effect that had this Third Constitutional Convention passed we would not now be encountering problems with the tax collection by the federal government. Do you believe that to be true?

CHRISTIAN: Do I believe that I heard that statement? I am not fully aware of this tax problem. As I understand it it's being undertaken by some presidential order.

RICHARDS: Yes.

C. BRYAN: Nothing is before the Congress.

CHRISTIAN: Because I don't see how the President could do it.

FEUERZEIG: It is a proposal that the Treasury came up with but basically it is that he suggested the takeover as a result of the bill-- as a result of the bills sponsored by Burton and Johnson.

CHRISTIAN: Let me say this. We have to always bear in mind that anything we do, any law we pass, in any area, the Congress can overrule it and undo it any time--because we are a territory. Now they don't like to admit that we are colonies, but we are, and the Constitution of the United States says that Congress shall make all meaningful laws, rules and regulations governing the territories. So when they delegate power to us, they give it with the one hand but they can take it back at any time. Any law that the Legislature of the Virgin Islands passes, or any constitution that we propose, the Congress can scrub it in one minute. We have to always keep that in mind.

GARCIA: Is that true of states?

CHRISTIAN: No, no. Not of states. The states are sovereign. We are not. We only have what they give us.

GARCIA: Maybe we ought to put in that we are sovereign.

(Laughter.)

FEUERZEIG: Saying, won't make it, is the judge's point. Miss Richards?

RICHARDS: Along that line then I gather there is no guarantee then even though this would have...

CHRISTIAN: If this is passed they could still do the same.

RICHARDS: What about a federal relations act in the event we did include in the Federal Relations Act that we should include

in the Federal Relations Act that we should include that the documents that we write, the Constitution and the Federal Relations Act, should supercede and take precedence.

CHRISTIAN: If they authorize it, fine, the day they choose to authorize it, but they can again -- You can never take away that power that the Congress has been granted by the Constitution. The Congress could pass all our laws if it chose to do so. It has not chosen to do so.

RICHARDS: Whatever, if there was a change in our status, say from a territory to a commonwealth, would that make a difference?

CHRISTIAN: They could do the same for Puerto Rico also.

HODGE: Then we have to take America to the United Nations.

CHRISTIAN: No. The thing is you have to amend the Constitution, because if you don't amend the Constitution of the United States this will obtain anyway. But the chances are that they are not going to do that.

C. BRYAN: They are not going to do that.

CHRISTIAN: It's only a theory we are talking about, but your question was if this Constitution of the Third Convention had passed would that have blocked this. Not necessarily, because if they had wanted to do it they could still do it.

C. BRYAN: The people who came down here are sending a message that they are not happy about the tax situation in the Virgin Islands. But nothing is before the Congress yet, and it may not go before the Congress on the income tax until next year. They are just sending you a message, the people who are unhappy. And sometimes it is only five or six guys that are unhappy. They are trying to shake you up.

RICHARDS: They are telling us who to elect because they are displeased with our Congressman.

C. BRYAN: Well, they send those too, those messages, too. The political messages.

FEUERZEIG: Could we direct questions to Judge Christian, please.

JAMES: We will always have each other but we won't have Judge Christian. Could you tell me, sir, what it costs in any fiscal year to operate one district court and two U.S. Attorney's Office?

CHRISTIAN: I haven't the foggiest idea.

JAMES: Does anybody have that information?

CHRISTIAN: The administrative office of the U.S. Courts would have it for us and the Department of Justice would have it for the U.S. Attorney's Office.

JAMES: And if I may, this is not directly before this committee, sir, but I would like to get your opinion. As I understand it, another section provides that the Attorney General also who it only requires about five years experience or five years before admission, and then he's the one who goes on to replace the Governor and the Lieutenant Governor. But only to his legal work, how long a period of training do you think an attorney general should have and also as grounds for experience, an attorney from New York or what have you or should it be a local experience and how much do you think?

CHRISTIAN: To tell you the truth, I don't want to restrict any legal officer to local at this time. We just simply do not have a large enough well of people to do that.

JAMES: If I may, sir, you earlier said that in effect that the Governor is having trouble in getting...

CHRISTIAN: Well I said that because he's had it before him for quite sometime and he can't come up with a name.

JAMES: Well, what I'm trying to ...

CHRISTIAN: And I know that he has asked several persons and they have all turned him down because they don't want to give up the big money they are making. For six years?

JAMES: Or run the risk that without being told why, they are not reappointed. In other words, I think there is more than one reason. I don't think it is just the drying up of the well.

CHRISTIAN: That's right.

JAMES: There may be people seeking other judgeships that are available and there it may also be the fact, and I think it's too hard for the Governor, saying who wants it when he knows if you change office they may be out. I think there's more than one reason.

CHRISTIAN: That's another reason why I think the six-year term is too short.

JAMES: Now in Connecticut, it's the only one I am familiar with, the Attorney General must be in practice for ten years. Do you think that's a reasonable time for an A.G. here?

CHRISTIAN: I think so. But, again, one of perhaps the most successful attorneys general in the United States never practiced one day: Robert Kennedy.

HODGE: Thank you.

JAMES: There may be those who disagree with you as to how successful he was, sir.

CHRISTIAN: Well, he had a staff under him of top notch people and he may not have known much or done much, but the Justice Department I think was very well run under Kennedy.

C. BRYAN: He made decisions, that's the important thing.

CHRISTIAN: He had Katzenbach. He had Byron White, the present Justice at his right hand then before he went to the Supreme Court and then he had Katzenbach. He had good people. They laid it out, and he signed.

JAMES: Let me ask you to clarify, judge. You indicated that Congress can set aside anything that it grants us and can't do that to a sovereign state. Well, wouldn't you agree that a lot of the laws that were passed by the states have been superceded by Congress because the Supreme Court held it was a violation and that that---in other words, in all reality the Congress can pass acts--such as wage and hour regulations--which overrule whatever the states have set up.

CHRISTIAN: Only if it involves interstate or foreign commerce. In other words, the Congress could not set a wage scale for the state of New York for workers there generally. It could set a wage scale for workers in the state of New York the bulk of whose effort is directed to interstate or foreign production.

JAMES: And the ultimate effect is...

CHRISTIAN: It can regulate a portion of the state's...

JAMES: What I was going to say is that the ultimate effect is it goes down to the others as well.

CHRISTIAN: Right.

JAMES: What I am trying to get across is that I got the impression where you stated sir was that we are different from most states because we can be directly overruled.

CHRISTIAN: That's right.

JAMES: The practical fact--and this has to do with the debate--that's going on between Professor Berger and a judge from the Third Circuit, I don't recall his name..

CHRISTIAN: Aldisert?

JAMES: I think it's an Irishman. Anyhow, he and this Professor Berger have been fighting as to whether or not we have not already amended the Constitution of the United States through the judiciary's interpretations of it, as opposed to bringing it back to the people.

FEUERZEIG: Is it Gibbons?

JAMES: Yes. Gibbons.

CHRISTIAN: Well, that's always the charge that the Supreme Court legislates and changes the Constitution. If the Supreme Court really did not interpret the Constitution it couldn't have lasted as long as it has. And that's why you don't want to have too rigid a document. You have to leave some play in it for the courts.

JAMES: One final point I want to make. What I am basically trying to get at--the Congress, is really in many respects, the Federal government is, supreme over the so-called sovereign states because of the expansion of these amendments to the Constitution and the interpretation of them. And we are not that unique here in the Virgin Islands.

CHRISTIAN: I don't accept that. In my opinion we are very unique because we are a territory.

FEUERZEIG: Mr. Hodge?

HODGE: This might have been asked already, but dealing with the territorial Supreme Court and the cost. Would the federal government contribute let's say a portion, that pro rata portion that the amount a District Court judge has and would that cost be shared by the local government. Would it be two costs?

CHRISTIAN: I don't understand the question.

HODGE: All right. You are going to have two District Court judges serving...

CHRISTIAN: If you do.

HODGE: Yes, on a supreme court, which means that they will be two-thirds. Would the cost be borne by the Federal government?

CHRISTIAN: Their salary?

HODGE: Well, whatever the cost for administration, their salary, everything.

CHRISTIAN: Well we have always been as now paid by the Federal government.

HODGE: Even though they are sitting? Who will pay the salary, let's say, of the judge from the Territory.

CHRISTIAN: The territory?

Senator WEICKER. Thank you very much, Judge Feuerzeig.

I want to thank the witnesses who appeared this morning. The committee recognized the importance of title I as far back as the 94th Congress and it is unfortunate that the draft legislation was not submitted earlier so it would have been possible to have enacted it prior to the November 3 referendum.

I am disturbed that anyone would read an authorization for constitutional self-government as degradation of sovereignty. I think it is clearly an exercise of the plenary authority of the Congress and a recognition that perhaps not all wisdom resides in Washington.

Sovereignty and supremacy of the United States are not at issue, but rather whether as a matter of Federal policy decisions about the form and process of local self-government should be made at the local or Federal level.

Whatever the decision of the voters on November 3, all the delegates of the Fourth Constitutional Convention of the Virgin Islands should be commended for their efforts, whether we agree with their decisions or not.

I am disturbed by the comments of Treasury and Interior on section 204. It is clear that no consideration has been given to the effect of the budget and tax program on the territories.

It should not have to be stated that the Federal Government bears a special responsibility for the economic well-being of the territories. In the trust territory, there are international obligations as well.

These responsibilities are not being met and I do not even detect any recognition of them.

I would appreciate it if Judge Feuerzeig and Mr. Marcuse would review each other's statements and submit their comments to the committee as well as answers to some written questions that the committee needs to consider before consideration of title I.

Judge FEUERZEIG. I would be happy to, Mr. Chairman.

Senator WEICKER. I would also appreciate the responses of the territories to the statements of both Interior and Treasury.

Ladies and gentlemen, thank you very much. The hearing is adjourned.

[Whereupon, at 10:10 a.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

FOFO I. F. SUNIA
AMERICAN SAMOA

COMMITTEE:
PUBLIC WORKS AND TRANSPORTATION
SUBCOMMITTEES:
SURFACE TRANSPORTATION
AVIATION
ECONOMIC DEVELOPMENT

COMMITTEE:
MERCHANT MARINE AND FISHERIES
SUBCOMMITTEES:
MERCHANT MARINE
FISHERIES, WILDLIFE CONSERVATION AND THE ENVIRONMENT

Congress of the United States
House of Representatives
Washington, D.C. 20515

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633-1371/633-1370

October 22, 1981

Honorable Lowell P. Weicker
Senator
Senate Energy & Natural Resources Committee
2110 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Weicker:

Thank you once again for allowing me to testify before your committee and to bring to your direct attention a matter whose urgency has reached a near desperate priority in the Territory of American Samoa: the electric power breakdown. I am enclosing for inclusion in the record a copy of the "Report on the American Samoa Power Situation" prepared by the Office of Territorial & International Affairs of the Interior Department and a copy of the most recent official audit of the condition of each of the generators by the Government of American Samoa.

A recent supplemental appropriation of $1.5 million by the Congress has made possible the complete repair of two of the existing generators. But the others, as you will see from the audit report, are in equally bad shape, and must also undergo similar overhauls. During our last District work period, I visited with the chairman of our newly created Power Authority Board and discussed the seriousness of the situation. We both agreed that if further Federal financial assistance is made available for the purpose of overhauling all the generators, the system can be normalized soon. Complete overhauls are preferred over purchase of new generators for two reasons: (1) an overhaul is cheaper, and (2) overhauls can be completed in six to ten months whereas a purchase of new generators can take up to four years to order, transport and install.

In the meantime, the new Power Authority Board has moved to employ experienced management and speed up efforts in payable collections. It is also instituting a variety of other changes which I believe are long overdue. In my own judgment, they are moving very wisely and with good speed. But they need the funds sufficient to completely overhaul three or four other generators immediately.

During a recent stop-over in American Samoa on their way to New Zealand, I personally gave Senators Hatfield and Hawkins a brief description of the electric power problems of the Territory. I would like to repeat my invitation to you to observe the effects of the situation firsthand.

Again, thank you for your personal interest in the welfare of the people of American Samoa.

Sincerely,

FOFO I.F. SUNIA
Member of Congress

Encl.

FIFS:MT:vg

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 27 1981

Honorable Peter T. Coleman
Governor of American Samoa
Pago Pago, American Samoa 96799

Dear Governor Coleman:

I am enclosing a copy of the June 1981 "Report on the American Samoa Power Situation" prepared by our Office of Budget.

The report highlights the past and current problems related to the power situation in American Samoa. It makes recommendations on improving various management and accounting practices. We hope that the report will be useful to you.

We will keep you apprised of our efforts in seeking loan guarantees or other financing alternatives.

Sincerely yours,

Alaine K. Morris

Deputy Assistant Secretary
Territorial & International Affairs

Enclosure

RECEIVED
9/4/81

Report on the American Samoa Power Situation

INTRODUCTION

The electric utility of American Samoa is essential for economic progress and development of self-sufficiency. The utility, however, has a long history of problems in providing adequate, reliable and effective service. A recent study (Parsons, 1979) of power generation needs for the future indicates an increasing demand for generating capacity and a need to replace existing equipment reaching the end of service life.

The U.S. Government has provided assistance for development and maintenance of the electric utility. Over the past year, the Government of American Samoa has requested additional funds to ameliorate the current situation and meet projected demands. A $1.5 million supplemental for FY 1981 has been approved by Congress for rehabilitation of existing equipment and an $8 million loan or loan guarantee is presently being considered for capital improvements for the utility by the House.

The purpose of this review is to identify problems that have limited American Samoa's ability to provide adequate, reliable, and efficient electrical service and recommend action necessary to provide such service in the future.

BACKGROUND

Since 1951, the American Samoa electric utility has been operated by the Department of Public Works, an executive branch of the American Samoa Government. Electric power is supplied by two generating stations, Satala and Tafuna. The generating capacity of the units owned by the Territory is

24 MW. In addition to these permanent units six portable units are leased from the U.S. Army.[1/] The Army units are rated to provide a total capacity of 9,000 MW. Table I provides an inventory of the existing generating equipment and the current status of each unit.

The total generating capacity of the system is 33 MW. This is more than sufficient to meet the needs of the Territory if all generating units are in good operating condition. The power requirement at peak demand load is 12.9 MW and an average demand load is 10.5 MW. As discussed in the Parsons report (1979), a reserve generating capacity should be in the range of 66 to 100 percent of the maximum demand. Therefore, a total operational capacity of between 21.4 MW and 25.8 MW should be available. The existing system of 33 MW should be adequate to meet the needs of American Samoa.

Although this large capacity exists, the current operational generating capacity of the American Samoa Government owned equipment is not sufficient to supply the average demand (10.5 MW) without the Army generators. Presently, only four of the ten Territory generators are operating, and these have been derated by approximately 20 percent, or 2.3 megawatts, due to mechanical problems. The current (April 1981) maximum operating capacity of the American Samoa Government equipment is 8.9 MW. The Army units are also operating at reduced capacity of 5.9 MW with only four units on-line. The total available maximum operating capacity is 15.1 MW. Any further appreciable loss of generating capacity will seriously affect the ability to meet demand.

1/ The American Samoa Government leased nine Army generators in response to a power crisis in 1974. It was planned that the Army units would be returned in 1980. Three were returned, but because of another power crisis at that time, six were retained for continued use. The Army has requested the return of the remaining six units.

TABLE I

Inventory of Existing Power Equipment & Current Status

Unit #	Make	Year Installed	KW Produced	Current KW Produced	Status
Satala Plant:					
1	Nordberg	1961	1,000	-0-	Under repair
2	Nordberg	1961	1,000	-0-	Under repair
3	Nordberg	1963	2,000	-0-	Under repair
4	Nordberg	1963	2,000	-0-	Under repair
5	Nordberg	1964	3,000	2,700	Operating at 90%
6	Nordberg	1964	3,000	2,700	Operating at 90%
7	General Motors	1978	2,500	2,100	Operating at 84%
Tafuna Plant:					
1	Nordberg	1973	3,500	-0-	Under repair
2	Nordberg	1973	3,500	-0-	Under repair
3	General Motors	1978	2,500	1,700	Operating at 68%
10	TOTAL ASG EQUIPMENT		24,000	9,200	
ARMY UNITS* (On loan to the American Samoa Government)					
B-1	EMD	1974	1,500	1,500	Operating at 100%
B-2	EMD	1974	1,500	1,500	Operating at 100%
B-3	EMD	1974	1,500	1,500	Operating at 100%
C-1	EMD	1974	1,500	-0-	Under Repair
C-2	EMD	1974	1,500	1,400	Operating at 93%
C-3	EMD	1974	1,500	-0-	Scrapped
6	TOTAL U.S. ARMY UNITS		9,000	5,900	

* Army units B-1, B-2 and B-3 are located at the Satala Plant; C-1, C-2, and C-3 are located at the Tafuna Plant.

This assessment does not consider the need for reserve capacity. A reserve capacity is necessary to allow routine maintenance of equipment. The lack of reserve capacity will require the overextension of operational units beyond normal off-line maintenance requirements. This obviously will affect the utility's ability to provide electricity in the near future.

In the FY 1982 budget process, American Samoa requested $6 million to purchase a 6 MW generator. The Department denied the request and TIA's appeal on the basis that power generation should be considered a utility function with customers paying for the system over time. The Department asked that TIA work with American Samoa to establish an independent power authority that would eventually become self-sufficient.

Since this time, the American Samoa Fono (legislature) approved a bill to establish the power authority. The Governor, however, vetoed the proposed legislation because the Fono made changes in the bill with which he disagreed. The Governor has since issued an Executive Order establishing the power authority.

PROBLEMS

The current situation in American Samoa is representative of the continuing problem with the electric utility. A review of records and personal conversations with TIA staff indicate that poor management and political and social interference with management have resulted in:

(1) inadequate maintenance of the physical plant;

(2) staffing problems and ineffective personnel;

(3) inefficiencies in the centralized government system for personnel, procurement and contracting; and

(4) deficiencies in the accounting system.

(1) Inadequate maintenance of the physical plant. Generator logs show that preventive maintenance does not occur. This has been confirmed by utility personnel. Apparently the only maintenance that is performed occurs when emergency repairs are made to keep the generators running (Comptroller Report (draft) AS-81-25). Preventive maintenance would take each generator out of service for about two days of every 11 days in service. This is, and has been, impossible since all operating generators have been needed to meet demand. It has been indicated that the bulk of mechancial shutdowns could have been prevented with routine preventive maintenance (Comptroller Report AS-79-12).

(2) Staffing problems and ineffective personnel. The electric utility has not had sufficient expertise to operate the physical plant. Over 200 hours of power outages occurred in 1980 (Comptroller Report (draft) AS-81-25). This was at least partially attributable to problems encountered as a result of critical vacancies and untrained personnel.

Normally the utility has two staff engineers. These personnel are essential to the overall proficiency of the operation. One of the positions was vacant for nearly the entire 1980 fiscal year.

An associated problem is that qualifications specified by the utility are generally not compatible with the salary range. The pay level for the General Manager is $35,000. The pay level for other professionals is below the low end of the pay scale for college graduates.

The record (file reports) refers to numerous instances of operator error. A 1978 consultants' report sponsored by the American Samoa Territorial Energy Office indicates that the cause of costly and disruptive breakdowns is that the operators do not use manufacturer's published operating procedures.

For example, the #1 generator at Satala was placed on line improperly with the result that the unit burned out. After repairs were accomplished the unit was again improperly brought on line and again burned out. The cost of these errors was $200,000. The lack of operator expertise has been sighted as the principal cause of ineffective operation of the utility.

The Comptroller (Report No. AS-81-25 (draft)) has noted that political and social pressures have resulted in rapid Samoanization (hiring of American Samoa natives) at all levels. This is a reasonable objective. It does not appear to be realistically obtainable without first establishing and pursuing long-range goals and plans to develop competent, skilled personnel through education, training and experience.

(3) The centralized government management system for personnel, procurement and contracting does not permit decisive action by utility management personnel. The electric utility manager does not have the authority necessary to properly run a critical operation such as the electrical utility. Currently, personnel functions such as hiring, firing, and disciplining must go through Manpower Resources (an operational unit of the government), and decisions are subject to review by Personnel Advisory Board. All accounts are controlled by the Director of Public Works. All purchase and commitment

of funds over $25,000 must go before the Capital Improvement Program Committee for approval. Billings and collections are dependent on Administrative Services. In summation, the electric utility manager carries the responsibility, but not the authority with which to properly run the operation.

(4) Inadequate accounting system. The new accounting system needs to be further developed to meet the needs of the utility. In March 1980, the American Samoa Government contracted with Touche, Ross and Company, a CPA firm to design a new accounting system for the electric utility. The system has been implemented and is producing relevant production statistics for management. The system is reliable, but it needs to be further developed in the following areas:

- Improve obligation procedures and recognize accounts payable;
- Develop manuals for purchasing and procuring services; and
- Improve and enforce billing and collection procedures.

RECOMMENDATIONS

Preventive Maintenance

Recommendation:

Establish an effective preventive maintenance program with qualified individuals designated to carry out an on-going program.

Rationale:

The utility needs to develop and monitor a preventive maintenance program. This would save dollars in expensive parts and repairs as well as increase revenue by reducing downtime. Further, a preventive maintenance program could serve as a gauge in determining when replacement equipment is needed.

Personnel and Staffing

Recommendation:

Conduct, through a private consultant, a personnel classification and salary administration study.

Rationale:

Make-up of the workforce and adequate compensation appear to be affecting effective operation of the utility.

Recommendation:

Seek out and employ the best qualified personnel and adjust the pay to whatever the expertise demands.

Rationale:

The utility has a history of not being able to recruit and retain qualified personnel.

Recommendation:

Undertake a concerted training effort to insure that the skills of on-board personnel are upgraded and remain current.

Rationale:

The utility staff has not had sufficient expertise in critical areas of operations. The lack of expertise is a primary cause of inefficient operations.

Management System

Recommendation:

Decentralize government management system to allow decisive action by the utility's management on critical operations.

Rationale:

The utility manager has the responsibility but not the authority with which to properly run the operation. (Concurrent with this action, changes are needed to strengthen the management personnel, as noted above.)

Accounting System

Recommendation:

The accounting system should be further developed in the following areas:

- Improve obligation procedures and provide recognition of accounts payable;
- Develop manuals for purchasing and procuring services; and
- Improve and enforce billing and collection procedures.

Rationale:

The improvements in the accounting system will enhance management's ability to run an efficient operation.

CONCLUSION

In the last 3 years, the U.S. Government Comptroller and two consultants have prepared reports on various aspects of the electric utility's operations. Generally, the accounting aspects have been improved, with a new system put into operation in FY 1980. However, I have not found that any corrective action has been taken on operational recommendations made by the Comptroller or consultants. In addition, a brief review of the Annual Reports of the Governor of American Samoa to the Secretary of the Interior shows that many of the same problems have been reported over and over since 1965. It appears

that a lot of money is spent on studies and reports which continually show the same type of problems, but little or no action is taken to correct or improve the situation.

The continuing problems of the electric utility can be attributed to poor internal management and political and social interference. The problems have existed over 15 years and will probably continue unless measures are taken to improve the utility's situation. The establishment of an independent power authority is the cause for some optimism in this regard. Provided the history of problems, however, the expenditure of additional Federal dollars, or any Federal commitment, should be based on assurances that management changes, including those recommended above, are carried out.

As noted earlier, Congress has provided $1.5 million in the 1981 Supplemental Appropriation Act. Considering the current serious power shortage, the funds should be used for rehabilitation of existing power generating equipment. In addition, a stipulation to the grant should require accomplishment of the recommended actions presented above prior to further Federal support. Given action on the recommendations and assurance that an autonomous power authority has been established, the Department should support a loan guarantee to be issued to the power authority. The loan guarantee likewise should have stipulations which will promote improved operating efficiency and increase the revenue base. An appropriate objective for the power authority is to improve the utility's operating and financial condition sufficiently to enter into the private bond market for capital improvements. This is not possible at present since the power authority could not receive a favorable bond rating.

A somewhat similar situation occurred in Guam in 1974. The Guam Power Authority (GPA) was unable to finance necessary improvements themselves or through the private bond market. Congress authorized the Interior Department to guarantee a loan by the Federal Financing Bank. The loan was regarded as an interim measure intended to provide the Power Authority time to improve its financial condition sufficiently to enter the private bond market. As conditions of the loan, the Power Authority agreed to several covenants intended to improve their financial condition. Although the Power Authority has not yet improved their financial condition to the extent they could enter the private market, they have complied with, or exceeded, the actions called for in the covenants. Their action has resulted in progressing from a net loss in FY 1977 to a net income in FY 1980. (Report of Guam Power Authority in connection with refinancing of Federal Financing Bank Loan, 1980.)

In formulating the stipulations to be associated with a loan guarantee for the American Samoa power authority, consideration should be given to the following covenants agreed to by the Guam Power Authority:

1. The Authority shall not allow its collection rate on current revenue billings to fall below a rate of 95% for any three consecutive months beginning January 1, 1981.

2. The Authority shall continue to take steps with the goal of achieving and sustaining a 2.0 debt service ratio, a ratio designed to enable the Authority to sell bonds in the private capital market. The Authority shall continue to obtain from investment banking firms corporate financial and management advice with respect to methods of achieving this goal.

3. The Authority shall continue to utilize the services of qualified personnel to serve on its Board of Directors. Any consideration of changes in the current make-up and composition of the Board shall be undertaken with due regard for the desirability of assuring continuity, and no changes in the Board's composition shall be made without prior consultation with the Secretary of the Interior.

4. The removal of the General Manager of the Authority, and the appointment of any successor, shall require the approval of the Secretary of the Interior.

5. The Government of Guam and the Authority shall take such steps as may be necessary to maintain autonomy for the Authority as a public utility in order to enhance its financial integrity in the private capital market.

6. On or before the expiration of the forty-five (45) days from the end of each calendar quarter beginning January 1, 1981, the Authority shall submit to the Secretary of the Interior the following reports:

(a) Financial data on revenue billings and collections; and

(b) Balance sheet and statement of operations.

7. The Authority shall continue to maintain its plant in reliable operating condition making adequate provision for such maintenance costs in its annual budget and rates. The Department of the Interior may, at its option and cost, and with prior arrangements with GPA, require an engineer's certificate stating that the signer has made an inspection of GPA's electric system setting forth (A) his findings as to whether GPA has been maintained in good repair, working order and condition, (B) his recommendations, if any,

as to the proper maintenance, repair and operation of the electric system and an estimate of the amount of money necessary for such purposes; (C) his recommendations, if any, with respect to repairs, replacements, improvements and extensions of the system. "Engineer's Certificate" shall mean an opinion or statement signed by an independent engineer or engineering firm having a reputation for special skill and knowledge in the construction, operation and management of electric public utility systems of the approximate size and character of the Authority.

(This list includes only those covenants from the Guam Power Authority agreement that may be applicable to a loan guarantee for the American Samoa power authority.)

Cited References 14

- Electric Power Generation Study, Island of Tutuila, American Samoa, The Ralph M. Parsons Company, 1979.
- Report of Guam Power Authority in connection with refinancing of Federal Financing Bank Loan, 1980.
- Review of American Samoa Government Electric Utility Fund for the year ending September 30, 1979, U.S. Department of the Interior, Office of the U.S. Government Comptroller for American Samoa. Report No. AS-79-12, August 1980.
- Special Review of Power Situation in American Samoa (Draft, April 30, 1981, U.S. Government Comptroller for American Samoa, Report No. AS-81-25, May, 1981.

Background References

- American Samoa Annual Reports to the Secretary of the Interior, 1965, 1968, 1969, 1975, 1977, 1979.
- American Samoa Government Annual Financial Report, 1980.
- Annual Report of the Fiscal condition of the American Samoa Government for the Fiscal Year ending September 30, 1979, U.S. Department of the Interior, U.S. Government Comptroller for American Samoa, Report No. AS-80-1, September, 1980.
- Governor's preliminary 1983 Budget, American Samoa Government.
- Water and Power plan for the United States Virgin Islands, 1981.

AMERICAN SAMOA GOVERNMENT
PAGO PAGO, AMERICAN SAMOA 96799
DPW-Electric Utility Division

In reply refer to:
PWO/6-1
Serial# 1232

RECEIVED

September 17, 1981.

To: Tala Tulafono, Chairman Power Authority Board

From: Acting General Manager, Electric Utility Division

Subject: Engines' Status.

Satala Unit No.1

Nordberg, FS-138-SC, 8 cyl. inline, 9020-0753 - 1000KW capacity. Operational at 800KW derated because of field coil (3ea.) replaced on the rotor assy and differance of metering between the new console switchboard and the old switchboard.

Satala Unit No.2

Nordberg, FS-138-SC, 8 cylinders inline, 9020-0754, 1000KW capacity. Down, need crankshaft which is out for price quotation and repair parts to rebuild engine and accessories.

Satala Unit No.3

Nordberg, FS-1312-HSC, 12 cylinders V-Engine, 1030-0907, 2000KW capacity. Down, final adjustment on the linkshaft on both banks before test run with load applied before unit can be labeled operational. Estimate by 21 September, 1981, unit should be running.

Satala Unit No.4

Nordberg, FS-1312-HSC, 12 cyl. V-Engine, 1030-0908, 2000KW capacity. Down, unit was shipped to Supreme Engineering to be "Lined and Board" at Australia. Unit is currently back and installed, rebuild crew found that with the No.1 main bearing installed and stretched the crankshaft will not rotate clockwise or counter clockwise. Found that the main bearing saddle was not smoothed out after boring. Have contacted Supreme Engineering and Mr. Al Webster will be here to access the work to be done.

Satala Unit No.5

Nordberg, FS-1316-HSC 16 cylinders, V-Engine, 3000KW capacity. Operational at 2100KW derated due to operational

temperatures and pressure limits as per manufacturers specifications.

Satala Unit No.6

Nordberg, FS-1316-HSC, 16 cylinders, V-Engine, 1030-1274 3000KW capacity. Operational at 2200KW. Derated due to operational temperatures and pressure limits as per manufacturers specifications. This is not the original No.6. The original was sent out to the States for repair. The company involved replied that this unit was beyond repair. The General Manager at that time bought this used unit through another company. Unit was sent here minus the fuel pumps and the turbocharger.

Satala Unit No.7

Electro Motive Division, 20 cylinders, 645E4, 2500KW capacity. Operational at 1850 KW. Derated due to over amperes on the third phase load side, trying to isolate the East and the canneries to find out where the load draw comes from. Unit was recently overhauled by Peaker Services Incorporated.

Tafuna Unit No.1

Nordberg, FS-1316-HSC, 16 cylinders, V-Engine, 1030-1346, and 3500KW capacity. Down, need new crankshaft. Price quotations are now pending.

Tafuna Unit No.2

Nordberg, FS-1316-HSC, 16 cylinders, V-Engine, 1030-1347, and 3500KW capacity. Down, need new crankshaft and repair parts, price quotations are pending. Unit was metal locked because of severe damaged by con-rod busting through the left bank. Work was done by crew from Michigan. The crankshaft was sent to Australia to Supreme Engineering for repair.

Tafuna Unit No.3

Electro Motive Division, 20 cylinders, 645E4, 2500KW capacity. Operational at 1800KW, derated due to operational temperatures. Crew repiping cooling water lines to the No.2 Unit's radiator to be used by No.3, so we could operate this unit with more efficiency.

Army Units.

Satala Unit B-1

B-1, Electro Motive Division, MP36A-60, 16 cylinders 567E4 S/N 63490, 1500KW capacity, and unit is deadlined. The No.6 main bearing was damaged also causing damage to the crankshaft. Unit is beyond field repair.

Satala Unit B-2

Electro Motive Division, MP36A-60, 16 cylinders 567E4, S/N 63507, and 1500KW capacity. Unit is operational at 1350KW. Derated due to overamperage on Feeder 1 that Plant "B" is tied to.

Satala Unit B-3

Electro Motive Division, MP36A-60, 16 cylinders, 567E4, S/N 63506, and 1500KW capacity. Unit is operational at 1250KW, derated due to overamperage problem and operating limits.

Tafuna Unit C-1

Electro Motive Division, MP36A-60, 16 cylinders, 567E4, S/N 63497, 1500KW capacity. Unit is down currently under repair for operational status.

Tafuna Unit C-2

Electro Motive Division, MP36A-60, 16 cylinders, 567E4, S/N 63495, 1500KW capacity. Unit is operational at 1000KW due to operational temperature and pressure limits.

Tafuna Unit C-3

Electro Motive Division, MP36A-60, 16 cylinders, 567E4, S/N 63489, 1500KW capacity. Unit is down and beyond field repair.

VA'AILEPU'A O. DANIELSON

SATALA POWER PLANT

Nordberg Unit #1, installed 1961	=	1,000KW
Nordberg Unit #2, installed 1961	=	1,000KW
Nordberg Unit #3, installed 1963	=	2,000KW
Nordberg Unit #4, installed 1963	=	2,000KW
Nordberg Unit #5, installed 1964	=	3,000KW
Nordberg Unit #6, installed 1964	=	3,000KW
Nordberg Unit #7, installed 1978	=	2,500KW
		14,500KW

TAFUNA POWER PLANT

Nordberg Unit #1, installed 1973	=	3,500KW
Nordberg Unit #2, installed 1973	=	3,500KW
G.M. Unit #3, installed 1978	=	2,500KW
		9,500KW

PLANT B

B-1, installed 1975	=	1,500KW
B-2, installed 1975	=	1,500KW
B-3, installed 1975	=	1,500KW
C-1, installed 1976	=	1,500KW
C-2, installed 1976	=	1,500KW
C-3, installed 1976	=	1,500KW
		9,000KW

THE VIRGIN ISLANDS OF THE UNITED STATES
OFFICE OF THE GOVERNOR
FEDERAL PROGRAMS OFFICE

JULIO A. BRADY, ESQ.
FEDERAL PROGRAMS COORDINATOR

1001 CONNECTICUT AVE., N.W.
SUITE 335
WASHINGTON, D.C. 20036
(202) 466-8040

October 13, 1981

Mr. Jim Beirne
Counsel for the Full Committee
3104 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Jim,

Enclosed is the "Analysis of Impacts of Federal Budget and Tax Policies on the U. S. Virgin Islands" prepared by the Governor's Federal Budget Task Force under my direction. This document updates the one submitted to the Department of the Interior upon its request to us for information concerning the probable impacts on the Virgin Islands Government as a result of the recently enacted budget and tax cuts by the Congress.

The figures underlined in red represent updated figures as compared to the report originally submitted to Interior.

If you have any questions or require any additional information regarding the Analysis please do not hesitate to contact me.

Sincerely,

Julio A. Brady, Esq.
Federal Programs Coordinator

Enc.

JAB:lgh

ANALYSIS of IMPACTS
of
FEDERAL BUDGET and TAX POLICIES
on
The U.S. VIRGIN ISLANDS

Prepared by the Governor's
Federal Budget Task Force
August 27, 1981

THE VIRGIN ISLANDS OF THE UNITED STATES
OFFICE OF THE GOVERNOR
CHARLOTTE AMALIE, ST. THOMAS 00801

August 27, 1981

Mr. Billy Lee Hart
Acting Deputy Assistant Secretary
Territorial and International Affairs
U. S. Department of the Interior
1900 C Street, N.W.
Washington, D.C. 20240

Dear Mr. Hart:

Enclosed in this package is the report prepared by the Federal Programs Coordinator for the Virgin Islands in response to your request for information contained in your TELEX to me of July 17, 1981.

I wish to indicate my deep interest in the subject of the report. I hope that this information will be useful in convincing both the Reagan Administration and the Congress that the recently-enacted economic policies of the Federal Government will have severe and distressing ramifications for the Virgin Islands.

I trust that the Department of the Interior will join us in advocating measures which will alleviate the hardship which will befall the people of the Virgin Islands if these budget and tax cuts are fully applied to the Territory.

Thank you for your anticipated cooperation in this regard.

Sincerely,

Juan Luis
Governor

Encl.

v

FEDERAL PROGRAMS OFFICE
THE VIRGIN ISLANDS OF THE UNITED STATES
OFFICE OF THE GOVERNOR

3A COMMANDANT GADE
CHARLOTTE AMALIE, ST. THOMAS
U.S. VIRGIN ISLANDS 00801

(809) 774-6517

August 26, 1981

Mr. Billy Lee Hart
Acting Deputy Assistant Secretary
Territorial and International
Affairs
1900 C St., N. W.
U.S. Department of Interior
Washington, D. C. 20240

Dear Mr. Hart:

Submitted herein is the information requested in your telex of July 17, 1981. There are five (5) separate documents which when combined detail all of the information requested.

The document labeled "Summary Of Federal Grant Awards" reflects the funding levels from grant awards to the Government of the Virgin Islands for FY'80.

The collection of sheets with the heading "Analysis Of Proposed Federal Grants Funding Reductions For FY'82" represents the working papers upon which the original report of the Federal Budget Response Task Force dated April 27, 1981 was based. These sheets contain detailed information on all federal grants used by the Virgin Islands Government including individual grant programs under such general categories as "Child Nutrition" or "Title I (ESEA)", for example, mentioned in the Priority Listing of Federal Programs.

The "Summary Of Updated Analysis Of Impacts Of FY'82 Federal Budget Cuts" provides information on funding levels for FY'81 and FY'82, the fiscal impacts and projected job losses organized by Departments and Agencies of the Virgin Islands Government. It also includes the information requested on "indirect inflows" to the Territory.

The document entitled "Priority Listing of Federal Programs" will outline the "essential" federal grants now utilized by the Government of the Virgin Islands.

Lastly, the anticipated revenue losses to the Virgin Islands Government for FY'82 as a direct result of the tax cuts are set forth

FEDERAL PROGRAMS OFFICE
THE VIRGIN ISLANDS OF THE UNITED STATES
OFFICE OF THE GOVERNOR

under the heading "Projected Losses Of Income Tax Revenues To The Government of the Virgin Islands".

I trust that the information provided herein fully satisfies your request and that you will utilize this data to support our contention that the economic policies of the federal government will have unintended but severe adverse impacts on the economy and welfare of the Virgin Islands and its people. We solicit your earnest advocacy on our behalf with both the Reagan Administration and the Congress.

Sincerely,

Julio A. Brady
Federal Programs Coordinator

JAB/rd

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THE VIRGIN ISLANDS OF THE UNITED STATES
OFFICE OF THE GOVERNOR
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EXECUTIVE SUMMARY

This report updates the "Analysis of Impacts on The United States Virgin Islands of President Reagan's Economic and Budgetary Proposals", dated April 27, 1981 prepared by the Governor's Federal Budget Response Task Force. It represents projected losses of federal funds to the Territory of the Virgin Islands as a direct result of the budget and tax cuts proposed by the Reagan Administration which was recently enacted by the Congress of the United States.

Projected losses of Income Tax Revenues to the Government of the Virgin Islands as a result of the federal income tax revisions are set forth under the same heading. The "Summary Analysis" of grant program losses provides information on federal funding levels to the Virgin Islands for FY'81 and FY'82, the probable fiscal impacts and projected job losses of federally funded positions as they will affect the Departments and Agencies of the Virgin Islands Government. It also includes estimates of "indirect flows" losses of federal money to the Territory.

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What follows in this Executive Summary will be an outline of the "essential" federal grants now utilized by the Government of the Virgin Islands which will be most severely affected by the federal budget cuts and those Virgin Islands department and agencies which operations will be reduced thereby.

This information will be organized under the heading of the Virgin Islands department or agency affected and the federal grant programs most severely impacted along with a listing of their federal grantor agencies.

Comprehensive Employment Training Administration(CETA)

The job losses incurred by the federal budget cuts affect permanent administrative-type jobs (42), currently existing positions under the public employment sector programs (346), and the projected loss in FY'82 of almost nine hundred (900) employment and training positions.

GRANT PROGRAM	GRANTOR
Title II D & C	U.S. Dept. of Labor
Title IV VETP	U.S. Dept. of Labor
Title VII PSIP	U.S. Dept. of Labor

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Department of Social Welfare

Apart from the direct loss of almost four million dollars ($4,000,000.) worth of food stamps coupons, clients of the Department of Social Welfare will be faced with a drastic reduction in services. While the reduction level of federal funding between FY'81 and FY'82 has been calculated at twelve percent (12%), the human impact is far more serious since it will cripple the department's ability to provide a wide range of services to its needy clientele in the territory.

GRANT PROGRAMS	GRANTOR
Food Stamp	Dept. of Agriculture
Public Assistance	Health & Human Services
Vocational Rehabilitation	Health & Human Services
Child Welfare Services IVB	Health & Human Services

Community Action Agency (CAA)

The Anti-Poverty Program will suffer the most dramatic and devastating consequences as a direct result of the substantial reduction of federal funds supporting the operation of our local CAA which, in turn, is responsible for administering sixteen (16) different programs. While most of the programs will continue to be federally funded, the CAA will not receive sufficient funds to continue to operate and

Community Action Agency (CAA) (Cont'd.)

administer these programs. In effect, the loss of federal funding will cut off the head of the anti-poverty apparatus of the Virgin Islands Government, resulting in fifty (50) job losses.

GRANT PROGRAM	GRANTOR
Local Initiative	Community Services Administration
Community Food & Nutrition	Community Services Administration
Senior Opportunities and Services	Community Services Administration
Summer Youth Recreation	Community Services Administration

Department of Health

The Department of Health has relied heavily on federal grant funds in its constant battle to ensure not only the availability of health care but also in upgrading the quality of health care services to residents and visitors alike. With the reduction in federal funding the Department of Health will, no doubt, be unable to maintain its capability to provide the best quality care to the people of the Virgin Islands.

Department of Health (Cont'd.)

GRANT PROGRAM	GRANTOR
Emergency Medical Services (EIO)	Human & Health Services
Community Mental Health Centers (Switch to Operations)	Human & Health Services
Health Incentive Grant	Human & Health Services
Maternal & Child Health	Human & Health Services

Department of Education

The optimum use of federal funding to facilitate the needs of some twenty-six thousand (26,000) students in the public school system in the Virgin Islands will be drastically reduced and will adversely affect the level of services to this particular segment in the territory.

However, all other non-profit and private institutions receiving federal funding will be similarly affected.

GRANT PROGRAM	GRANTOR
Title I (ESEA)	U.S. Office of Education
Child Nutrition	U.S. Dept. of Agriculture
Vocational Education	U.S. Office of Education

Virgin Islands Housing Authority

The Department of Housing, deprived of the anticipated amount of federal funds in FY'82 for its operating

Virgin Islands Housing Authority (Cont'd.)

subsidy, will be unable to do necessary maintenance on housing units that are now in dire need of repair. We estimate that over three hundred (300) vacant units will not be restored to habitable conditions as a result of cuts in the federal subsidy, thereby exacerbating the already critical housing shortage in the Virgin Islands.

GRANT PROGRAM	GRANTOR
PHA-Owned Rental Housing (Operating Subsidy)	U.S. Housing & Urban Development

In sum, the Virgin Islands stands to lose over fourteen million dollars ($14,000,000.) in income tax revenues, almost thirteen million dollars ($13,000,000.) in federal grant awards, over seven million dollars ($7,000,000.) in indirect inflows of federal money to the Territory and some seven hundred (700) jobs.

Moreover, it should be noted that the thirteen million dollar ($13,000,000.) figure estimated as federal grant losses is not higher principally because of the use of carry-over monies from prior fiscal years. This phenomenon is most apparent in the budget of the Virgin Islands Department of Education. Thus, the full force and effect of the cuts in federal grant funding to the Virgin Islands will not be realized until FY'83.

SUMMARY OF FEDERAL GRANT AWARDS

Department/Agency

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Bureau of Corrections 11
CETA 16
Civil Defense & Emergency Services 10
Commerce Department ..... 15 - 16
Commission on Aging 10
Community Action Agency 9
Community Services 17
Conservation and Cultural Affairs 14
Costal Zone Management 17
Education Department 13
Employment Security 17
Energy Office 11
Fire Services 10
Health 12
Highway Safety 11
Housing and Community Renewal 15
Labor Department 16
Law Enforcement Planning Commission 11
Occupational Safety and Health 16
Office Federal Programs Coordinator 9
Personnel 9
Planning Office 9
Public Safety 15
Public Works 15
Social Welfare 13
Youth Services Administration 10

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SUMMARY OF FEDERAL GRANT AWARDS
V.I. EXECUTIVE BUDGET FY'81

Department or Agency	Expended 1980
Division of Personnel	
IPA Labor Relations	$ 27,688
Computerization and Modernization of the V.I. Merit System	91,458
Maintenance of Personnel Information System	21,146
Sub-Totals	$ 140,292
Virgin Islands Planning Office	
Community Development Block Grant	$ 3,421,829
Coastal Energy Impact CZM	55,809
Restoration of Boat Launching	17,500
Comprehensive Planning "701"	18,228
Coastal Zone Management "305"	9,177
State Historic Preservation Programs	81,479
Sub-Totals	$ 3,604,022
V.I. Community Action Agency	
Headstart Programs	$ 1,622,250
CAA Programs	494,560
Senior Opportunity Service	26,009
Foster Grandparents	103,292
Retired Senior Volunteers	21,329
Community Food and Nutrition	43,243
Summer Youth Recreation	--
Energy Grant (Crisis Intervention)	71,247
Special Crisis Intervention	9,249
Sub-Totals	$ 2,391,179
Office of the Federal Programs Coordinator	
Coastal Energy Impact Program	$ --
Sub-Totals	$ ---

Department or Agency	Expended 1980
Office of Civil Defense and Emergency Services	
Major Disaster Assistance	$ 54,322
Basic and Special Projects	
National Flood Insurance Program	---
Sub-Totals	$ 54,322
Youth Services Administration	
Special Youth Rehabilitation Center	$ 17,104
Sub-Totals	$ 17,104
V.I. Fire Service	
Rural Community Fire Prevention	$ 3,440
Sub-Totals	$ 3,440
Commission On Aging *	
Title IIIA State Agency Administration	$ ---
Title IIIB Social Services	$ ---
Title IIIC Congregate Meals	921,291
Title IIIC2 Home Delivery Program	---
Title IVA Training	---
Sub-Totals	$ 921,291

* Agency was under Department of Social Welfare

Department or Agency	Expended 1980
Bureau of Corrections	
Disaster Emergency Contingency Fund	$ 16,743
Sub-Totals	$ 16,743
Office of Highway Safety	
Highway Safety Planning and Administration	$ 284,656
Department of Health	239,919
Department of Education	126,163
Department of Public Safety	579,816
Department of Public Works	100,710
Sub-Totals	$ 1,331,264
Virgin Islands Energy Office	
State Energy Conservation	$ 283,147
State Supplemental Program	50,712
Energy Audits - Schools	---
Energy Audits - Hospitals	988
Energy Audits - C.V.I.	---
Emergency Temperature Restrictions	10,199
Schools and Hospitals Energy Conservation	121,135
Energy Extension Service	14,423
Sub-Totals	$ 480,604
Law Enforcement Planning Commission	
Planning and Block Grants	$ 324,443
Juvenile Justice and Delinquency Prevention	11,850
Sub-Grants - Public Safety	72,780
- Youth Services Administration	74,250
- Bureau of Corrections	40,852
Sub-Totals	$ 524,175

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Department or Agency	Expended 1980
Department of Health	
EMS Feasibility Study and Initial Operation	$ 325,837
State Health Planning and Development	309,192
Medical Assistance Programs	1,852,081
Health Insurance	2,665
Alcoholism Grants	80,650
Alcoholism Training Support	---
Drug Abuse Grants	131,986
Drug Abuse Prevention Program	19,101
Special Grant Implementation of Uniform Act	118,098
Community Mental Health Staffing and Conversion	394,897
Comprehensive Mental Health Services	18,531
V.I. Para-Professional Development	50,370
V.I. State Mental Health Manpower Development	94,773
Maternal, Child Health Services	1,066,735
Crippled Children Services	201,181
Family Planning	42,180
Developmental Disabilities	108,743
Hypertension	2,914
Venereal Disease Control	85,749
Immunization	95,518
Influenza Control	13,925
Supplemental Food WIC	1,359,297
Health Incentive Grants	370,926
East End Clinic	167,128
Rural Health Incentive	206,435
Health Education Risk Reduction	13,988
Statewide Services	36,424
Health Facilities St. Thomas, St. Croix and St. John	390,000
Hospital Construction	20,610,000
Switch to Operations Mental Health	---
Sub-Totals	$28,169,324

Department or Agency	Expended 1980
Department of Education	
School Lunch Programs	$ 4,435,963
Vocational Education	285,108
Adult Basic Education	268,811
ESEA - All Titles and Projects	5,608,673
Handicapped Children Early Education	40,289
SAFA Math Program	521,725
Teachers Corps Project	132,136
ESAA Special Projects	539,513
Deaf and Blind Projects	28,652
Career Education Plan	37,444
State Student Encentive	14,225
State Agreement Title	---
Education Dissemination	71,826
Special Assistance Program Grants	212,179
V.I. Occupational Information Coordinating Committee	12,845
Territorial Teacher Training	---
V.I. Facilitator	42,269
Special Grants to Education	43,437
Sub-Totals	$12,295,095
V.I. Advisory Council to Vocational Education	$ 88,303
Sub-Totals	$ 88,303
Department of Social Welfare	
Vocational Rehabilitation Programs	$ 1,139,330
Child Welfare Services	144,186
Work Incentive Program	176,121
Title XX Day Care Contribution	531,176
Title XX Protective Care Contribution	198,623
Title XX - Adult Programs Contribution	74,301
Public Assistance	3,550,631
Food Stamp Program	1,290,430
Paternity and Child Support Programs	443,386
Nutrition Program	1,093,124
Child Abuse - Extended Homemaker Services	31,999
Sub-Totals	$ 8,673,307

Department or Agency	Expanded 1980
Department of Conservation and Cultural Affairs	
Youth Conservation Corps	$ 83,068
Young Adult Conservation Corps	100,873
Areawide Waste Treatment Management Plan	125,271
Water Pollution Control	422,552
Air Pollution Control	124,332
Underground Injection Control	---
Pesticides Enforcement	---
Pesticides Certification	39,575
Public Water Supervision	82,889
Hazardous Waste Management	85,268
Library Services and Contruction Program Title I	91,806
Inter-Library Cooperation	5,372
Emancipation - A Second Look	32,016
V.I. Council on the Arts	239,923
Comprehensive Water Resources Management	---
Non-Point Source	---
Land and Water Conservation	---
Drinking Water Surface Impoundment Assessment	6,106
State Comprehensive Outdoor Recreation Plan	127,633
Toneskolen School of Music	12,000
Fort Frederick Museum	13,561
V.I. Museum	6,500
Sewage Treatment Construction Grants	771,932
Fish and Wildlife	260,378
Caribbean Fishery Management Council	29,731
NMFS Commercial Fisheries Research	---
Aerial Turtle Census NMFS	---
NOAA Sandmining Project Offshore	43,558
St. Croix Ground Lizard on Green Cay	---
Size Frequency Survey of Spiny Lobster	---
Cost and Earning Study of Fish and Lobster	---
Fieldwork Investigation	---
V.I. Endangered Species Program	---
CZM Marine Sanctuary	37,788
Sub-Totals	$ 2,742,132

Department or Agency	Expended 1980
Department of Public Safety	
Crime Information Fund	$ 2,000
Crime Information Juvenile Detention Center	10,835
Sub-Totals	$ 12,835*
Department of Public Works	
UMTA - Technical Assistance	$ ---
UMTA - Capital Assistance	---
Solid Waste Management Work Program	35,112
Solid Waste Resource Recovery Program	98,320
Construction Waste Water Treatment Plants	---
Repair of Drinking Water System	---
FHA Territorial Highway	1,570,874
Sub-Totals	$ 1,704,306
Department of Housing and Community Renewal	
Reduced Level of Additional Subsidized Housing Loans	$ ---
Rehabilitation Loan Fund	---
Technical Assistance Grant	---
Sub-Totals	$ ---
Department of Commerce	
EDA - 302A Planning Grant	$ 107,691
Area Development Assistance Planning Grant Rural Development Council Staff Support	18,000
Planning Grant - Rural Development Specialist	5,792
Small Business Revolving Fund Loan (Frederiksted Local Development Corporation	18,274
Phase I - St. Croix Industrial Park	18,923

*see page 9

Department or Agency	Expended 1980
Department of Commerce (Continued)	
Economic Census in the Virgin Islands	$ 1,648
Commerce Economic Development	30,000
Impact of Tourism in the Caribbean	17,752
Sub-Totals	$ 218,080
Department of Labor	
Labor Relations	$
Resolution of Charges of Discrimination	40,840
Sub-Totals	$ 40,840
Occupational Safety and Health	
Statistical Grant	$ 28,725
Occupational Safety and Health	119,453
Sub-Totals	$ 148,178
CETA	
Title II	$ 11,458
Title II B & C	2,000,937
Title II D (PSE)	1,850,966
Title IV YETA	313,965
Title IV YCCPP	288,553
Title VI (PSE)	884,693
Title VII (PSIP)	220,701
Title IX (SCSE)	---
Title XVIII (Special Government Grant)	56,038
Sub-Totals	$ 5,627,311

Department or Agency	Expended 1980
V.I. Employment Security	
State Employment Insurance	$ 1,468,609
State Unemployment Insurance	1,120,269
Unemployment Compensation (UCFE)	34,496
Unemployment Compensation (UCX)	85,229
Unemployment Compensation (UFE)	1,552
Job Corp.	---
Work Incentive Program	279,945
Labor Market Information - CETA	---
Labor Market Information - ES	---
Food Stamp	---
Special Unemployment Federal Program	8,840
Public Service Employment	422,981
Extended Benefit Payment	3,210
VINI Benefit Payment	4,001,274
Sub-Totals	$ 7,426,405
Department of Agriculture	
Forestry Programs - Urban and Rural	$ 2,060
Egg Production	3,906
Sub-Totals	$ 5,966
Office of Community Services	
Community Action - Older Persons Services (SEOO)	$ 26,206
Sub-Totals	$ 26,206
Coastal Zone Management	$ 710,993
Sub-Totals	$ 710,993
Grand Total	**$77,360,882**

*Department of Public Safety has been excluded from total

SUMMARY OF UPDATED ANALYSIS OF IMPORTS
FY'82 FEDERAL BUDGET CUTS

Department/Agency

Agriculture 19
Bureau of Corrections 19
Civil Defense 19
College of the Virgin Islands 19
Commerce 19
Commission on Aging 19
Community Action 19
Conservation & Cultural Affairs 19
Education 19
  Board of Education 19
Energy 19
Farmers Home Administration 21
Federal Programs Office 19
Fire Services 19
Food Stamps Coupons 21
Health 19
Highway Safety 19
Housing Authority 20
  Housing and Community Renewal 20
Labor 20
  CETA (Labor Department) 20
Law Enforcement Planning Commission 20
Legal Services 21
National Guard 21
Personnel 20
Planning Office 20
Port Authority 20
Public Television 20
Public Works 20
Small Business Administration 21
Social Security Administration 21
Social Welfare 20
State Economic Opportunity Office 20
Tri-Island Economic Development Council 20
Youth Services Commission 21

SUMMARY OF UPDATED ANALYSIS OF IMPACTS OF FY'82 FEDERAL BUDGET CUTS

FEDERAL BUDGET RESPONSE TASK FORCE

OFFICE OF THE GOVERNOR, UNITED STATES VIRGIN ISLANDS

AUGUST 19, 1981

Department or Agency	*FY'81 Funding Level*	*FY'82 Funding Level*	*FY'82 Fiscal Impacts*	*FY'82 Projected Job Losses*	*FY'81 vs. FY'82 Ratio*
Agriculture	$33,900	$33,900	-0-	-0-	-0-
Bureau of Corrections	$14,540	-0-	$(14,540)	-0-	(100%)
Civil Defense and Emergency Services	$139,212	$138,512	$(700)	-0-	(1%)
College of the V.I.	$2,085,369	$2,261,711	$176,342	3	.08%
Commerce	$506,250	-0-	$(506,250)	6	(100%)
Commission on Aging	$1,493,251	1,579,950	86,699	-0-	.06%
Community Action	$2,581,681	$1,970,225	$(611,456)	50	(24%)
Conservation and Cultural Affairs	$2,990,563	$1,934,706	$(1,099,192)*	122	(36%)
Education	$14,444,104	$13,329,241	$(2,498,766)*	118	
Board of Education	$157,735	-0-	$(157,735)	-0-	(100%)
Energy	$435,054	$253,650	$(181,404)	-0-	(42%)
Federal Programs Office	$137,867	-0-	$(137,867)	-0-	(100%)
Fire Service	$40,500	$26,000	$(14,500)	-0-	(36%)
Health	$7,784,009	$6,501,557	$(1,282,452)	30	(16%)
Highway Safety	$1,605,368	$1,149,469	$(455,899)	4	(28%)

SUMMARY OF UPDATED ANALYSIS OF IMPACTS OF FY'82 FEDERAL BUDGET CUTS

FEDERAL BUDGET RESPONSE TASK FORCE

OFFICE OF THE GOVERNOR, UNITED STATES VIRGIN ISLANDS

AUGUST 19, 1981

Department or Agency	*FY'81 Funding Level*	*FY'82 Funding Level*	*FY'82 Fiscal Impacts*	*FY'82 Projected Job Losses*	*FY'81 vs. FY'82 Ratio*
Housing Authority	$6,822,689	$9,573,557	$(524,387)	-0-	(5%)
Housing and Community Renewal	$173,000	-0-	$(173,000)	-0-	(100%)
Labor	$3,032,600	$2,920,171	$(127,429)*	8	(4%)
CETA Administration (Labor Department)	$6,485,807	$3,718,439	$(3,896,957)*	388	(51%)
Law Enforcement Planning Commission	$1,191,454	$766,000	$(425,454)	-0-	(36%)
Personnel	$118,443	-0-	$(118,443)	-0-	(100%)
Planning	$204,642	$234,427	$(37,215)*	3	(14%)
Port Authority	$972,412	$972,412	-0-	-0-	-0-
Public Television System	$404,940	$124,940	$(280,000)	-0-	(69%)
Public Works	$13,075,224	$14,225,000	$1,149,776	-0-	
Social Welfare	$4,862,879	$4,296,159	$(566,720)	-0-	(12%)
State Economic Opportunity Office	$133,520	-0-	$(133,520)	2	(100%)
Tri-Island Development Council	$853,010	$204,000	$(649,010)	-0-	(76%)

SUMMARY OF UPDATED ANALYSIS OF IMPACTS OF FY'82 FEDERAL BUDGET CUTS

FEDERAL BUDGET RESPONSE TASK FORCE

OFFICE OF THE GOVERNOR, UNITED STATES VIRGIN ISLANDS

AUGUST 19, 1981

Department or Agency	*FY'81 Funding Level*	*FY'82 Funding Level*	*FY'82 Fiscal Impacts*	*FY'82 Projected Job Losses*	*FY'81 vs. FY'82 Ratio*
Youth Services Administration	$100,422	-0-	$(100,422)	6	(100%)
ADD: FY'81 Recissions	$ 5,914,082	-0-	-0-		
DEPARTMENTAL TOTALS	$78,794,527	$66,214,026	$(12,580,501)	740	
INDIRECT INFLOWS					
Food Stamp Coupons	$21,924,000	$18,000,000	$(3,924,000)	-0-	(17%)
Farmers Home Administration	$10,118,950	$9,320,860	$(2,424,090)*	16	(21%)
Social Security Administration	$292,800	$136,800	$(156,000)	-0-	(53%)
Legal Services Corp.	$585,898	$150,000	$(435,989)	22	(74%)
Small Business Administration	$4,200,000	$1,500,000	$(2,700,000)	-0-	(64%)
National Guard (V.I.)	$4,274,888	$6,217,917	$1,943,029	-0-	45%
ADD: FY'81 Recissions	$1,608,000	-0-	-0-		
INDIRECT INFLOWS TOTAL	$43,004,536	$35,307,577	$(7,697,050)	38	
GRAND TOTALS	$121,799,063	$101,521,603	$(20,277,551)	778	

*FY'81 Recissions included in this figure.

ANALYSIS OF PROPOSED FEDERAL GRANTS FUNDING REDUCTIONS FOR FY 82

Department/Agency

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Bureau of Corrections 24
Civil Defense 25
College of the Virgin Islands ..... 26 - 27
Commerce 28
Commission on Aging 29
Community Action ..... 30 - 31
Conservation & Cultural Affairs ..... 32 - 33
Education ..... 34 - 38
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Energy Office 39
Estimated Cash Inflows To Virgin Islands 40
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Highway Safety 44
Housing Authority 45
  Housing and Community Renewal 46
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Labor ..... 48 - 49
  CETA (Labor Department) 48
Law Enforcement Planning Commission 50
National Guard 51
Personnel 52
Planning Office 53
Port Authority 54
Public Television 55
Public Works 56
Small Business Administration 57
Social Security 58
Social Welfare 59
State Economic Opportunity Office 60
Tri-Island Economic Development Council 61
Youth Services Commission 62

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Department of Agriculture :							
V.I. Forestry Program (Urban)	DOA	$17,900	-0-	$17,900	$17,900	-0-	-0-
V.I. Forestry Program (Rural)	DOA	12,400	-0-	12,400	12,400	-0-	-0-
Egg Production Inspection	DOA	3,600	-0-	3,600	3,600	-0-	-0-
Totals		$33,900	-0-	$33,900	$33,900	-0-	-0-

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ANALYSIS OF PROPOSED FEDERAL GRANTS FUNDING REDUCTIONS FOR FY 82 AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Bureau of Corrections:							
Disaster Emergency Contingency Fund	FEMA	$ 14,540	$ -0-	$ 14,540	$ -0-	$(14,540)	-0-
Title IID - CETA NON ADD	V.I. CETA	270,000 NA	-0-	270,000 NA	120,000 NA	(150,000) NON-ADD	
Totals		$ 14,540	$ -0-	$ 14,540	$ -0-	$(14,540)	-0-

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Civil Defense and Emergency Services:							
Emergency Management Assistance	CDPA	$ 78,512	-0-	$ 78,512	$ 78,512	-0-	-0-
Disaster Preparedness Office	FDAA	25,000	-0-	25,000	25,000	-0-	-0-
National Flood Insurance Program	FEMA	35,700	-0-	35,700	35,000	(700)	-0-
Totals		$139,212	-0-	$139,212	$138,512	(700)	-0-

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ANALYSIS OF PROPOSED FEDERAL GRANTS FUNDING REDUCTIONS FOR FY 82 AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
College of Virgin Islands:							
4-H Planning Grant	NEH	$ 2,500	-0-	$ 2,500	$ -0-	$(2,500)	
Nursing Capitation	NSS	2,891	-0-	2,891	2,891	-0-	
Reichhold Center Summer Program	V.I. Arts Council	3,000	-0-	3,000 NA	(see DCCA sheet)		
College Library Resource Program	DOE	3,960	-0-	3,960	3,960	-0-	
Reichhold Center (support for season)	V.I. Arts Council	5,000 NA	-0-	5,000 NA	(see DCCA sheet)		
Reichhold Center Repertory Co.	N.E. Arts	12,500	-0-	12,500	9,375	(3,125)	
Reichhold Center Special Projects	N.E. Arts	13,500	-0-	13,500	10,125	(3,375)	
CETA Instructional Programs	V.I. CETA	16,680 NA	-0-	16,680 NA	(see CETA/Labor sheet)		
Community Services & Contingency Ed.	DOE	17,500	-0-	17,500	13,125	(4,375)	
CVI-Statistics Project	DOE	19,946	-0-	19,946	-0-	(19,946)	
CETA Basic Skills Instructional Prgm.	V.I. Personnel	21,896 NA	-0-	21,896 NA	(see Personnel sheet)		
Comprehensive Planning for Higher Ed.	DOE	30,396	-0-	30,396	22,797	(7,599)	
Management Intern Program	V.I. CETA	32,237 NA	-0-	32,237 NA	(see CETA sheet)		
Ciquaters Research Study	NOAA	45,977	-0-	45,977	111,897	65,920	
Education Information Center	DOE	50,000	-0-	50,000	37,500	(12,500)	
Dean's Grant	DOE	62,000	-0-	62,000	62,000	-0-	
Teacher Corp.	DOE	130,378	-0-	130,378	113,000	(17,378)	
Upward Bound	DOE	186,202	-0-	186,202	193,650	7,448	
Minority Institutions Science Improvement	Nat. Science Fed.	80,074	-0-	80,074	80,074	-0-	
Strengthening Developing Institutions	DOE	350,000	-0-	350,000	400,000	50,000	

ANALYSIS OF PROPOSED FEDERAL GRANTS FUNDING REDUCTIONS FOR FY 82 AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
College of Virgin Islands (Continued):							
Water Resources Research Center	OWRC	$ 115,000	-0-	$ 115,000	$ 115,000	$ -0-	
Cooperative Ext. Service	DOA	552,729	-0-	552,729	401,927	(150,802)	
Agriculture Experiment Station	DOA	409,816	-0-	409,816	500,000	90,184	
Shark: Potential as Food Resource	NMFS				99,600	99,600	
Study of Effects of EPA-approved Pesticide	NMFS				42,000	42,000	
Analysis of Larvae Starvation	NMFS				42,790	42,790	
Totals		$2,085,369	-0-	$2,085,369	$2,261,711	$ 176,342	

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Department of Commerce							
EDA "302A" Planning Grant	EDA	$ 96,250	$ -0-	$96,250	-0-	$(96,250)	
Area Dev. Assistance Planning Grant (Rural Dev. Council Staff Support)	FmHA	40,000	-0-	40,000	-0-	(40,000)	
Area Dev. Assist. Planning (Rural Development Specialist)	FmHA	20,000	-0-	20,000	-0-	(20,000)*	
Small Business Revolving Final Loan (F'sted. Local Dev. Corp.) Phase I - Stx Industrial Park	EDA EDA	350,000	-0-	350,000	-0-	(350,000)	
Total Department of Commerce		$506,250	$ -0-	$506,250	-0-	($506,250)	6

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Commission on Aging:							
Title III a State Agency Admin.	HHS	$ 75,000	-0-	$ 75,000	$ 75,000	$ -0-	-0-
Title III b Social Services	HHS	611,251	-0-	611,251	623,700	12,449	-0-
Title III c Congregate Meals	HHS	668,250	-0-	668,250	730,125	61,875	-0-
Title c-2 Home Delivery Program	HHS	123,750	-0-	123,750	136,125	12,375	-0-
Title IV a Training	HHS	15,000	-0-	15,000	15,000	-0-	-0-
Totals		$1,493,251	-0-	$1,493,251	$1,579,950	$ 86,699	-0-

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
V.I. Community Action Agency							
Local Initiative							
Administration	CSA	$ 152,288	$ -0-	$ 152,288	-0-	$ (152,288)	7
All Operating	CSA	80,698	-0-	80,698	-0-	(80,698)	4
Homemaker Services	CSA	39,245	-0-	39,245	-0-	(39,245)	3
Youth Development	CSA	84,716	-0-	84,716	-0-	(84,716)	9
St. John Multi-Service Center	CSA	39,577	-0-	39,577	-0-	(39,577)	3
Alien Emphasis	CSA	61,602	-0-	61,602	-0-	(61,602)	5
Health Outreach	CSA	37,748	-0-	37,748	-0-	(37,748)	2
Family Education	CSA	144,374	-0-	144,374	-0-	(144,374)	11
Local Initiative Total		$ 640,248	-0-	$ 640,248	-0-	$(-640,248)	44
Summer Youth Recreation	CSA	$ 11,400	-0-	11,400	-0-	$ (11,400)	-0-
Community Food & Nutrition	CSA	51,044	-0-	51,044	-0-	(51,044)	3
Senior Opportunity & Services	CSA	30,469	-0-	30,469	-0-	(30,469)	3
CSA Total		$ 733,161		$ 733,161		$(-733,161)	(50)
Retired Senior Volunteers	ACTION	$ 23,560	-0-	$ 23,560	$ 25,560	$ 2,000	-0-
Foster Grandparents	ACTION	143,479	-0-	143,479	145,479	2,000	
Sub-total		$ 167,039		$ 167,039	$ 171,039	$ 4,000	-0-

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
V.I. Community Action Agency (Con't)							
Headstart - Full Year	HHS	$1,596,173	-0-	$1,596,173	$1,707,905	$ 111,732	
Headstart - Handicapped	HHS	60,308	-0-	60,308	64,529	4,221	
Headstart - Training	HHS	25,000	-0-	25,000	76,752	1,756	
Total Headstart		$1,681,481		$1,681,481	$1,799,186	$ 117,709	
Sub Grants							
Information & Referral	COA	$(NA) 39,452	-0-	$ 39,452	46,209	$ 6,757	
Extended Homemaker Services	COA	(NA) 42,590	-0-	42,590	51,868	9,278	
Sr. Community Serv. Employ.	CETA/DOL	(NA)536,000	-0-	536,000	555,750	19,750	
Low-Income Energy Ass't. Prog. to Family Education Prog.	V.I.SEOO/HHS	(NA) 82,583	-0-	82,583	-0-	(82,583)	
Total		$(NA)700,625		$(NA)700,625	$ 653,857	$ 46,798	
CAA Total		$ 2,581,681		$2,581,681	$1,970,225	$ (615,452) $ (611,456)	

ANALYSIS OF PROPOSED FEDERAL GRANTS FUNDING REDUCTIONS FOR FY 82 AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Conservation & Cultural Affairs:							
Youth Conservation Corps	DOA/DOI	$ 92,000	$	$ 92,000	$ -0-	$(92,000)	114
Coastal Zone Management	NOAA	700,000		700,000	440,158	(259,842)	
Young Adult Conservation Corps	DOA/DOI	52,043		52,043	21,277	(30,766)	5
*Areawide Waste Treatment Mgt. Plan	EPA	169,901		169,901	-0-	(169,901*)	2
Water Pollution Control	EPA	357,000		357,000	370,000	13,000	
Underground Injection Control	EPA	69,400		69,400	37,400	(32,000)	
Air Pollution Control	EPA	100,000		100,000	95,000	(5,000)	
Pesticides Enforcement	EPA	50,000		50,000	30,000	(20,000)	
Pesticides Certification	EPA	2,000		2,000	2,000	-0-	
Public Water Supervision	EPA	98,200		98,200	98,200	-0-	
Hazardous Waste Management	EPA	110,419		110,419	208,000	97,581	
Library & Const. Act Prgm. Title I	DOE	62,208		62,208	46,800	(15,408)	
Library & Const. Act Prgm. Title III	DOE	14,223		14,223	8,400	(5,823)	
*Emancipation - A Second Look	NEH	108,324		108,324	-0-	(108,324*)	
V.I. Council of the Arts - Project Grants	NEA/NFAH	320,500		320,500	200,000	(120,500)	
Comprehensive Water Resources Mgt.	WRC	101,800		101,800	-0-	(101,800)	1
Non-Point Source	EPA	100,000		100,000	-0-	(100,000)	
Land & Water Conservation	DOI	68,145		68,145	-0-	(68,145)	
*Drinking Water Surface Improvement Assessment	EPA	-0-		-0-	-0-	-0-	
Emancipation Textbook Project	DOE			-0-	61,259	(61,259)	
Sub-Total		$2,576,163	-0-	$2,576,163	$1,618,494	$ 957,669	122

*Single year grant

ANALYSIS OF PROPOSED FEDERAL GRANTS
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Conservation & Cultural Affairs (continued):							
Division of Fish & Wildlife:							
Commercial Fisheries R&D	NFMS	$ 32,720	$32,720	$ -0-	$ 25,464	$ 25,464	
Endangered Species Act	FWS	113,900	-0-	113,900	-0-	(113,900)	
*Area Turtle Census	NMFS	5,000		5,000	-0-	(5,000*)	
*Cost & Earning Study - Fish & Lobster	NMFS	23,400		23,400	-0-	(23,400*)	
Caribbean Fisheries Mgt. Council	NMFS	25,000		25,000	25,000	-0-	
Size-Frequency Survey - Spring Lobster	CFMC	8,000		8,000	16,000	8,000	
Pitman Robertson Act 15605 Fish & Wildlife	DOI	105,100		105,100	106,200	1,100	
Dingell Johnson Act - Fish & Wildlife	DOI	131,500		131,500	133,500	2,000	
ST-X Ground Lizard on Green Cay	FWS	2,500		2,500	-0-	(2,500)	
Administrative Reporting Program	FWS	-0-		-0-	-0-	-0-	
Fisheries Field Investigation		10,615	10,615	-0-	-0-		
Migratory Shore & Upland Game Birds		-0-			10,047	10,047	
Sub-Total		$ 457,735	$43,335	$ 414,400	$ 316,212	$(98,188)	
Grand Totals for Department of Conservation & Cultural Affairs		$3,033,898	$43,335	$2,990,563	$1,934,706	$(1,055,857) (1,099,192)	122

*Single year grant

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Reclissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Department of Education							
Child Nutrition	USDA						
Nutrition Education		$ 75,000	$ -0-	$ 75,000	$ 30,000	$(45,000)	** See page 5 of 5
School Lunch St. T.		1,954,560	-0-	1,954,560	1,720,012	234,548	
School Lunch St. C.		1,954,560	-0-	1,954,560	1,720,012	234,548	
Non-food Asst. (Reserved)		3,049	-0-	3,049	-0-	(3,049)	
Non-food Asst. (Unreserved)		6,367	-0-	6,367	-0-	(6,367)	
State Admin.		123,591	-0-	123,591	123,591	-0-	
Non-food Asst. (CCFP)		2,898	-0-	2,898	-0-	(2,898)	
Admin. Expenses (SFSPC)		5,874	-0-	5,874	5,874	-0-	
Child Care Food Program		310,000	-0-	310,000	310,000	-0-	
Summer Food Services		260,000	-0-	260,000	182,000	(78,000)	
A.I.M.S.		34,210	-0-	34,210	34,210	-0-	
Food Distribution		30,245	-0-	30,245	30,245	-0-	
Child Care Admin. Expenses		37,000	-0-	37,000	37,000	-0-	
Total Child Nutrition		$4,797,354	$ -0-	$4,797,354	$4,192,944	$(604,410)	
Vocational Education							
Homemakers Seeking Employment		$ 3,000	$ -0-	$ 3,000	*Catagorical programs have been consolidated - FY'82	$	
Limited English		7,767	-0-	7,767			
Admin. - Multi Level		30,696	-0-	30,696			
Secondary		50,000	-0-	50,000			
Post Secondary Ed.		24,000	-0-	24,000			
Adult Education		20,000	-0-	20,000			
Disadvantaged		50,000	-0-	50,000			
Handicapped		28,883	-0-	28,883			
Total Vocational Education		$ 214,346	$ -0-	$ 214,346	$ 197,627	$(16,719)	

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Department of Education (Continued):							
Program Improvement							
Guidance & Counselling		$ 9,000	$ -0-	$ 9,000	* Categorical programs have been consolidated - FY'82	$	
Research - Program Improvement		9,000	-0-	9,000			
Administration		5,000	-0-	5,000			
Personnel Training		25,300	-0-	25,300			
Sub-total		$ 48,300	$ -0-	$ 48,300	$ 36,225	$ (12,075)	
Disadvantaged		$ 7,647	$ -0-	$ 7,647	$ 5,735	$ (1,912)	
Consumer & Homemaking							
Regular		$ 10,000	$ -0-	$ 10,000	$ * Categorical prgms, etc.	$	
Depressed		6,631	-0-	6,631			
Sub-total		$ 16,631	$ -0-	$ 16,631	$ 11,642	$ (4,989)	
Planning & Evaluation		$ 1,912	$ -0-	$ 1,912	$ 1,929	$ 17	
Adult Basic Education	USOE	$ 229,392	$ -0-	$ 229,392	$ 229,392	$ -0-	
Title I (E.S.E.A.)	USOE						
State Administration		$ 50,000	$ -0-	$ 50,000	$ 36,000	$(14,000)	
Grants to L.E.A. for Deprived		3,090,000	590,000	2,500,000	2,960,070	460,070	
Total Title I		$3,140,000	$ (590,000)	$2,550,000	$2,996,070	$ 446,070	

ANALYSIS OF PROPOSED FEDERAL GRANTS
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Department of Education (Continued):							
Title IV-B E.S.E.A.	USOE						
Instruc. Materials & Sch. Hir. Pcs.		$ 298,640	$	$	$ *	$	
Administration		37,500					
Total Title IV-B		$ 336,140	-0-	$ 336,140	$ 316,444	$(19,696)	
Title IV-C E.S.E.A.	USOE						
Admin. Imp. in LEP		37,500			*		
Improvement in LEP		192,844					
Innovation Coop. Ed.		7,074					
Improvement School Mgnt. Coord.		1,415					
Handicapped		42,147					
Total Title IV-C		$ 280,980	$(130,980)	$ 150,000	$ 126,919	$(23,081)	
Title V-B E.S.E.A.	USOE						
Planning Research & Evaluation		$ 65,554			*		
Office of Public Information		30,000					
Total Title V-B		$ 95,554	$(16,489)	$ 79,065	$ 79,065	$ -0-	
V.I. Facilitator (NDN)	USOE	$ 37,500	$(2,500)	$ 35,000	$ 35,000	$ -0-	
Title VII E.S.E.A.	USOE						
Coord. Tech. Asst. (Bilingual)		$ 10,400 (est.)	$ -0-	$ 10,400	$ 10,400	$ -0-	
Secondary Bilingual/Bicultural		$ 208,446	-0-	208,446	208,446	-0-	
Sub-total		$ 218,846	$ -0-	$ 218,846	$ 218,846	$ -0-	**

ANALYSIS OF PROPOSED FEDERAL GRANTS
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Department of Education (Continued):							
Title VI E.S.E.A.							
Educ. Deprived - Handicapped		$ 245,060	$ -0-	$ 245,060	$ 257,725	$ 12,665	
Grants to St. Educ. of Handicapped Children		958,391	-0-	958,391	958,391	-0-	
Handicapped Child & Early Ed.		73,348	(18,337)	55,011	-0-	(55,011)	
V.I. Admin. Personnel Training Program on Handicapped		48,000	-0-	48,000	48,000	-0-	
Total Title VI		$ 1,324,799	$(18,337)	$ 1,306,462	$1,264,116	$(42,346)	
Deaf/Blind Project							
E.S.A.A.	USOE	$ 575,339	$(143,835)	$ 431,504	$ -0-	$(431,504)	
V.I. Ed. Dissemination Prog.	USOE	85,500	-0-	85,500	75,000	(10,500)	
Teacher Corp.	USOE	94,622	(23,656)	70,966	40,023	(30,943)	
Special Federal Grants to Educ.	USOE	458,737	(114,684)	344,053	-0-	(344,053)	
Sub-total		$1,214,198	$(282,175)	$ 932,023	$ 115,023	$(817,000)	
General Assistance	USOE	$ 3,000,000	$(300,000)	$ 2,700,000	$ 2,700,000	$ -0-	**
Territorial Teacher Training		400,000	(12,150)	387,850	387,850	-0-	

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Department of Education (Continued):							
Career Education Incentive Act	USOE	$ 44,599	$ (11,150)	$ 33,449	$ 24,734	$ (8,715)	
Title II E.S.E.A. Elem., Secondary, Ed. Act	USOE	100,074	-0-	100,074	90,067	(10,007)	
State Student Incentive Grant	USOE	11,842	-0-	11,842	11,842	-0-	
V.I. Occup. Inform. Coord. Comm.		80,487	20,122	60,365	60,365	-0-	
Sub-total		$ 3,637,002	$ (343,422)	$ 3,293,580	$3,274,858	$ (18,722)	
V.I. Advisory Council on Vocational Education		93,500	-0-	93,500	93,500	-0-	
Juvenile Justice Program Act/Alternative Education		133,906	-0-	133,906	133,906	-0-	
Department of Education GRAND TOTAL		$15,828,007	$1,383,903	$14,444,104	$ 13,329,241	$(1,114,863)	** 118
Board of Education							
Reinsurance Program		$ 157,735	$ -0-	$ 157,735	$ -0-	$ (157,735)	
Department of Education and Board of Education GRAND TOTAL		$15,985,742	$1,383,903	$14,601,839	$13,329,241	$(1,272,598)	

ANALYSIS OF PROPOSED FEDERAL GRANTS
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
V. I. Energy Office:							
Emergency Energy State Plan	DOE	$ 29,000	-0-	$ 29,000	$ -0-	$(29,000)	-0-
State Energy Conservation Program	DOE	129,100	-0-	129,100	96,825	(32,275)	-0-
Schools and Hospitals	DOE	36,109	-0-	36,109	-0-	(36,109)	-0-
State Supplemental Program	DOE	43,900	-0-	43,900	32,925	(10,975)	-0-
*Sultan Solar Energy Center	DOE	31,745	-0-	31,745	-0-	(31,745*)	-0-
Energy Extension Service Program	DOE	165,200	-0-	165,200	123,900	(41,300)	-0-
Totals		$435,054	-0-	$435,054	$253,650	$(181,404)	-0-

*Single Year Grants

ANALYSIS OF PROPOSED FEDERAL GRANTS
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Estimated Cash Inflows To Virgin Islands							
(FmHA Private Sector Loans)							
Business Industrial Loan Guarantee	FmHA	$ 460,000	$ -0-	$ 460,000	$ -0-	$(460,000)	10
Single Family Housing Loans	FmHA	9,000,000	1,500,000	$7,500,000	7,500,000	-0-	
Low-Income Housing Loans & Grants	FmHA	200,000	108,000	92,000	92,000	-0-	
Multifamily (Ownership) Housing Loans	FmHA	1,200,000	-0-	1,200,000	1,200,000	-0-	
Farmers Program	FmHA	510,860	-0-	510,860	510,860	-0-	
Farmers Program Operating	FmHA	290,590	-0-	290,590	-0-	(290,590)	5
Soil and Water	FmHA	65,500	-0-	65,500	-0-	(65,000)	1
Total		$11,726,950	$1,608,000	$10,118,950	$9,302,860	$(816,090)	16

ANALYSIS OF PROPOSED FEDERAL GRANTS
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Federal Programs Office							
State CEIP Administration	DOC	$ 4,800	Frozen	$ 4,800	$ -0-	$(4,800)	-0-
Fuel Oil Terminal Needs Assessment	DOC	39,457	Applications	39,457	-0-	(39,457)	2
CEIP Planning Study	DOC	47,800	by U.S. Commerce	47,800	-0-	(47,800)	2
5 Year Capital Improvement Plan	DOC	45,810	-0-	45,810	-0-	(45,810)	2
Total Federal Programs Office		$137,667	-0-	137,867	-0-	(137,867)	6

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ANALYSIS OF PROPOSED FEDERAL GRANTS
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
V.I. Fire Service							
Rural Fire Protection and Control	DOA	$ 40,500	$ -0-	$ 40,500	$ 26,000	$(14,500)	-0-

ANALYSIS OF PROPOSED FEDERAL GRANTS
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Department of Health:							
Establishment & Initial Operation (EMS)	PHS/HHS	$ 200,000	$	$ 200,000	$ 170,000	$(30,000)	
State Health Planning and Development Agency	PHS/HHS	398,138		398,138	283,520	(114,618)	(20)
Health Insurance	HCFA/HHS	8,560		8,560	9,868	1,308	
Medical Assistance Program	HCFA/HHS	1,500,000		1,500,000	1,500,000	-0-	
Health Education Risk Reduction	CDC/HHS	44,016		44,016	37,414	(6,602)	
Alcoholism Formula Grant	PHS/HHS	26,261		26,261	26,261	-0-	
V.I. Paraprofessional Manpower Development Program	HDMI/HHS	48,349		48,349	41,097	(7,252)	
V.I. State Mental Manpower Development Program	HDMI/HHS	119,555		119,555	101,622	(17,933)	
Switch to Operations	PHS/HHS	1,078,252		1,078,252	968,748	(109,504)	
Grant for Implementation Act	ADA/MHA	155,252		155,252	131,964	(23,288)	
State Training Support Program	ADA/MHA	30,768		30,768	26,153	(4,615)	
Drug Abuse Formula Grant	PHS/HHS	137,490		137,490	112,772	(24,718)	
State Drug Abuse Prevention	PHS/HHS	51,298		51,298	43,603	(7,695)	
Developmental Disabilities	HHS	135,000		135,000	123,750	(11,250)	
Maternal & Child Health A	PHS/HHS	153,700		153,700	123,420	(30,280)	
Maternal & Child Health B	PHS/HHS	95,000		95,000	74,545	(20,455)	
Maternal & Child Health - 516	PHS/HHS	576,200		576,200	502,860	(73,340)	
Crippled Children Fund A	PHS/HHS	96,600		96,600	82,450	(14,150)	
Crippled Children Fund B	PHS/HHS	70,000		70,000	59,500	(10,500)	
V.I. Family Planning Project	PHS/HHS	200,000		200,000	170,000	(30,000)	
Health Incentive Grants	PHS/HHS	31,675		31,675	26,924	(4,751)	
Veneral Disease Control	PHS/HHS	87,650		87,650	74,502	(13,148)	
Immunization Program	PHS/HHS	44,083		44,083	44,083	-0-	
East End Family Health Center	PHS/HHS	250,000		250,000	250,000	-0-	
Supplemental Food Program WIC	FNS/DOA	2,023,244		2,023,244	1,406,001	(617,243)	
Rural Health Initiative	PHS/HHS	222,918		222,918	110,500	(112,418)	(10)
Totals		$7,784,009	$ -0-	$7,784,009	$6,501,557	$(1,282,452)	(30)

ANALYSIS OF PROPOSED FEDERAL GRANTS
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Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Reclissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Office of Highway Safety:							
Planning & Administration	DOT	$ 225,560		$ 225,560	$ 343,983	$ 118,422	
Traffic Law Enforcement	DOT	144,620		144,620	-0-	(144,620)	
Pedestrian Safety	DOT	7,500		7,500	851	(6,649)	
Alcohol Related Highway Safety	DOT	9,200		9,200	2,920	(6,280)	
Emergency Medical Service	DOT	9,620		9,620	4,063	(5,557)	
Driver Education	DOT	137,400		137,400	27,625	(109,775)	
Driver Licensing	DOT	87,400		87,400	53,256	(34,144)	
Pupil Transportation Safety	DOT	58,500		58,500	16,841	(41,659)	
Purchase of Ambulances	DOT	40,000		40,000	17,000	(23,000	
Ambulance Staffing	DOT	162,998		162,998	48,160	(114,838)	
EMS Administration	DOT	85,000		85,000	14,808	(70,192)	
Safety Restraint System	DOT	33,051		33,051	940	(32,111)	
Traffic Education Administration	DOT	35,500		35,500	5,796	(29,704)	
Highway Safety Coordinator & Staff	DOT	33,530		33,530	914	(32,616)	
Road Striping	DOT	180,237		180,237	180,237	-0-	
Route Signs and Kilometer Markers	DOT	154,165		154,165	267,016	112,851	
Traffic Signals Maintenance	DOT	79,968		79,968	75,120	(4,848)	
Highway Design & Construction Manual	DOT	21,000		21,000	39,791	18,791	
Traffic Engineering Units	DOT	100,119		100,119	50,148	(49,971)	
Totals		$1,605,368		$1,605,368	$1,149,469	$(455,899)	4
New Money		$ 648,250			244,000		

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Virgin Islands Housing Authority:							
PHA-Owned Rental Housing	HUD	$ 5,747,260	$2,800,315	$2,946,945	$3,262,148	$ 315,203	
PHA-Owned Homemaking							
Estate Title VI, I-13	HUD	20,320	20,320	-0-	-0-	-0-	
Estate Non Bijou VI, I-14	HUD	454,620	454,620	-0-	-0-	-0-	
Section 8 Housing Assistance Payments Program	HUD	825,744	-0-	825,744	825,744	-0-	
Public Housing Modernization Program							
Phase XIII	HUD	1,550,000	-0-	1,550,000	-0-	(1,550,000)	
Phase XIV)	HUD	1,500,000	-0-	1,500,000	1,500,000	-0-	
Comprehensive Improvement Assistance Program	HUD				3,985,665	3,985,665	
Totals		$10,097,944	$3,275,255	$6,822,689	$9,573,557	$2,750,868 (524,387)	

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ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Housing & Community Renewal:							
Rehabilitation Loan Fund	HUD			-0-	-0-	-0-	
Technical Assistance Grant (For St. John - 56 homeowners)	FmHA	$ 173,000	-0-	$ 173,000	-0-	$ (173,000)	
Totals		$ 173,000	-0-	$ 173,000	$ -0-	$ (173,000)	

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Indirect Inflows							
V.I. Legal Services	L.S.Corp.	$ 533,098	$ -0-	$ 533,098	$ 150,000	$ 383,098	
Commission on Aging	L.S.Corp.	24,000	-0-	24,000	-0-	24,000	
Pending Bank Fund		5,000	-0-	5,000	-0-	5,000	
Alien Bill	L.S.Corp.	8,800	-0-	8,800	-0-	8,800	
Reginald Hober Fund		15,000	-0-	15,000	-0-	15,000	
Totals		$ 585,898	$ -0-	$ 585,898	$ 150,000 Estimated	$(435,898) Estimated	

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ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Labor:							
CETA:	*DOL*						
Title II BC		$ 1,586,336	$	$1,586,336	$1,557,150	$(29,186)	
Title IV-YETP		535,043	(19,017)	516,026	438,600	(96,443)	
Title IV-YCCIP		208,177		208,177	-0-	(208,177)	
Title II D-PSE		2,009,352	(643,398)	1,365,954	-0-	(2,009,352)	(238)
Title VI-PSE		910,404	(467,174)	443,230	-0-	(910,404)	(108)
Title VII-PSIP		227,949		227,949	242,441	14,492	
Title IX-SCSE		536,000		536,000	550,000	14,000	
Title XVIII-Special Gov.'s Grant		231,109		231,109	182,000	(49,109)	
Administrative Cost Pool		969,558		969,558	407,000	(562,558)	(42)
Title IV-SYEP		401,468		401,468	341,248	(60,220)	
Sub-Total		$ 7,615,396	$(1,129,589)	$6,485,807	$3,718,439	$(3,896,957)	(388)
V.I. Employment & Security	*DOL*						
State Employment		$ 1,195,727	$	$1,195,727	$1,169,350	$(26,377)	(8)
State Unemployment Ins.		840,956		840,956	804,790	(36,166)	
Unemployment Comp. (UCFE)		9,000		9,000	9,000	-0-	
Unemployment Comp. (UCX)		65,000		65,000	65,000	-0-	
Unemployment Comp. (UFE)		10,000		10,000	10,000	-0-	
Job Corp		49,600		49,600	54,560	4,960	
Worl Incentive Program		445,602		445,602	352,712	(92,890)	
Labor Market Info-CETA		60,000		60,000	60,000	-0-	
Labor Market Info-ES		74,400		74,400	83,968	9,568	
Food Stamps	*DOA*	78,000	(15,000)	63,000	45,000	(33,000)	
Sub-Total		$ 2,828,285	$(15,000)	$2,813,285	$2,654,380	$(173,905)	(8)

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Labor (continued)							
Occupational Safety & Health	*DOL*						
OSHA		$ 125,650	$ -0-	$ 125,650	$ 197,791	$ 72,141	
OSHA		16,000	-0-	16,000	-0-	(16,000)	
OSHA-Statistical		30,835	-0-	30,835	33,000	2,165	
Sub-Total		$ 172,485	$ -0-	$ 172,485	$ 230,791	$ 58,306	-0-
Labor Relations							
EEO-Resolution of		$ 11,830		11,830	-0-	(11,830)	
Discrimination Charges	*EEOC*	35,000	-0-	35,000	35,000	-0-	
Sub-Total		46,830	-0-	46,830	35,000	(11,830)	-0-
Grand Total Department of Labor		$10,662,996	$(1,144,589)	$9,518,407	$6,638,610	$4,024,386	396

ANALYSIS OF PROPOSED FEDERAL GRANTS FUNDING REDUCTIONS FOR FY 82 AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Law Enforcement Planning Commission:							
Administrative Expenses	LEAA	$ 280,000		$ 280,000	$110,000	$(170,000)	-0-
"Promis" Program	LEAA	216,466		216,466	150,000	(66,466)	-0-
Victim/Witness Program	LEAA	74,803		74,803	50,000	(24,803)	-0-
Formula (Block) Grant	LEAA	317,000		317,000	200,000	(117,000)	-0-
Juvenile Programs	LEAA	56,250		56,250	56,000	(250)	-0-
Juvenile Code Revision	LEAA	26,000		26,000	-0-	-0-	-0-
JJDP Supplemental Assistance to Insular Areas	LEAA	220,935		220,935	200,000	(20,935)	-0-
Totals		$1,191,454	-0-	$1,191,454	$766,000	$(399,454) (425,454)	-0-

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
V. I. National Guard:							
Salaries	Nat.	$1,914,988	$ -0-	$1,914,988	$2,883,817	$ 968,829	
Drill Pay	Guard	600,500	-0-	600,500	875,000	274,500	
Other Operating Expenses	" "	1,759,400	-0-	1,759,400	2,459,100	699,700	
Totals		$4,274,888	$ -0-	$4,274,888	$6,217,917	$1,943,029	

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Division of Personnel							
Continuation of the Merit System Modernization Project	OPM	$ 90,000	$ -0-	$ 90,000	$ -0-	$(90,000)	
Automated Personnel Information Systems and Consolidated Filing Systems for Personnel Records	OPM	28,443	-0-	28,443	-0-	(28,443)	
Totals		$ 118,443	-0-	$ 118,443	-0-	$(118,443)	

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
V. I. Planning Office							
Historical Preservation	DOI/HCRS						
Survey and Planning		$204,642	$	$204,642	$234,427	$29,785	3
A&D Projects		67,000	67,000	-0-	-0-	-0-	
Historical Preservation Subtotal		$271,642	$67,000	$204,642	$234,427	$29,785	
Com. Dev. Block Grant Secty's Discretionary	HUD	-0-	-0-	-0-	-0-	-0-	-0-
Totals		$271,642	$67,000	$204,642	$234,427	$29,785 (37,215)	3

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
V. I. Port Authority:							
St. Croix Airport Terminal Development	DOT	$972,412	$ -0-	$972,412	$ 2,000,000	$ 1,027,588	-0-
St. Thomas Airport Terminal Development	DOT	-0-	-0-	-0-	40,000,000	40,000,000 not certain	-0-
Totals		$972,412	$ -0-	$972,412	$42,000,000	$41,027,588 NA	-0-

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Public Television Station							
Cooperation for Public Broadcasting	PBS	$ 124,940	$ -0-	$ 124,940	$ 124,940	$ -0-	
Capital Improvement Telecommunications	DOC	280,000	-0-	280,000	-0-	(280,000)	
Totals		$ 404,940		$ 404,940	$ 124,940	$(280,000)	

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ANALYSIS OF PROPOSED FEDERAL GRANTS FUNDING REDUCTIONS FOR FY 82 AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Department of Public Works							
UMTA-Technical & Operating Assistance	DOT	$ 103,709	$ -0-	$ 103,709	$ 225,000	$ 121,295	-0-
UMTA-Capital Assistance	DOT	1,330,000	-0-	1,330,000	4,000,000	2,670,000	-0-
Solid Waste Mgt. Work Program	EPA	48,995	-0-	48,995	-0-	(48,995)	-0-
Solid Waste Resource Recovery Program	EPA	90,000	-0-	90,000	(see note 4)	none	-0-
Construction Waste Water Treatment Plants	EPA	107,520	-0-	107,520	7,700,000	7,592,480	-0-
Repair Drinking Water System	EDA/FmHA	1,000,000	-0-	1,000,000	(see note 2&3)	unknown	-0-
FHA Territorial Highway	FHA/DoT	2,695,000	-0-	2,695,000	2,300,000	(395,000)	-0-
Total Public Works		$5,375,224	$ -0-	5,375,224 13,075,224	14,225,000	$9,939,780 1,149,776	-0-

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Small Business Administration		$4,200,000	$ -0-	$4,200,000	$1,500,000	$(2,700,000)	

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Social Security Administration	SSA	$292,800	$ -0-	$292,800	$136,800	($156,000)	0

ANALYSIS OF PROPOSED FEDERAL GRANTS FUNDING REDUCTIONS FOR FY 82 AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Department of Social Welfare:							
Vocational Rehabilitation	DHHS	$ 725,364	-0-	$ 725,364	$ 544,023	$ 181,341	-0-
- Basic Grant		700,364					-0-
- Trust Fund		25,000					-0-
Public Assistance (N.A., OAPTD)	DHHS	2,400,000	-0-	2,400,000	2,400,000	-0-	-0-
Child Welfare	DHHS	202,708	-0-	202,708	152,031	50,677	-0-
Social Services - Title XX		500,000	-0-	500,000	414,000	86,000	
Title VII - Elderly Feeding	DOA	66,546	-0-	66,546	49,910	16,636	-0-
Food Stamps (Admin.)	DOA	671,697	-0-	671,697	503,773	167,924	-0-
Food Stamp Coupons		21,924,000NA	-0-	21,924,000NA	18,000,000NA	3,924,000	-0-
Work Incentive		58,347	-0-	58,347	43,760	14,587	-0-
- WIN	DOL	44,000					-0-
- Family Planning	DHHS	14,347					-0-
Child Abuse	DHHS	39,999	-0-	39,999	39,998	-0-	-0-
- Homemaker Services							
Child Support IV-D	DHHS	198,218	-0-	198,218	143,664	49,554	-0-
Totals		$4,862,879	-0-	$4,862,879	$4,296,159	$(566,719) $(566,720)	-0-

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
V.I. State Economic Opportunity Office:							
V.I. SEOO	CSA	$ 50,937	-0-	$ 50,937	-0-	$(50,937)	2
Low-Income Energy Assist. Prog.	HHS	82,583	-0-	82,583	-0-	(82,583-)	-0-
Total		$133,520	-0-	$133,520	-0-	$(133,520)	2

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ANALYSIS OF PROPOSED FEDERAL GRANTS FUNDING REDUCTIONS FOR FY 82 AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Tri-Island Economic Development Council							
Special Impact Administration	GSA/OED	$ *610,995	-0-	$610,995	-0-	$ (406,995-)	-0-
Capital Improvement		178,005	-0-	178,005	-0-	(178,005-)	-0-
Total		789,000		789,000		(585,000-)	
Special Impact (fxz)	GSA/OED	64,010	-0-	64,010	-0-	(64,010-)	-0-
Grand Total Tri-Island Economic		$ 853,010	-0-	$853,010	-0- 204,000	$ (649,010-)	-0-

* $204,000 has been added to F.Y. 81 funding Level. Tri-Island has been authorized to utilize all F.Y. 81 funds through September, 1982 by GSA/OED.

ANALYSIS OF PROPOSED FEDERAL GRANTS
FUNDING REDUCTIONS FOR FY 82
AS OF 8/10/81

Department and Grant Titles	Grantor Agency	FY 81 Funding Level	FY 81 Recissions	Adjusted FY 81 Funding Level	FY 82 Federal Budget Funding Level	FY 82 Fiscal Impacts	Potential FY 82 Job Reductions
Youth Services Administration:							
Special Youth Rehabilitation	FEMA	$ 7,422		$ 7,422	$ -0-	$(7,422-)	-0-
Youth Employment Training Program	VI-CETA	144,766 NA	-0-	144,766	120,000	(24,766-)	2
Foster Care Group Home	VI-LEPC	201,997 NA	-0-	201,997	-0-	(201,997-)	3
Juvenile Pre-Trial Services	VI-LEPC	294,000 NA	-0-	294,000	-0-	(294,000-)	
Attorney Services	VI-LEPC	24,500 NA	-0-	24,500	-0-	(24,500-)	1
Construction Projects	VI-PO	93,000	-0-	93,000	-0-	(93,000-)	-0-
		$765,685	-0-	$765,685	$120,000	$(645,685)	
Less NA		665,263	-0-	665,263	120,000	545,263	
Totals		$100,422	-0-	$100,422	-0-	$(100,422)	6

DEC 2 1981

SIXTEENTH GUAM LEGISLATURE

P.O. BOX 373
AGANA, TERRITORY OF GUAM
U.S.A. 96910

NOV 25 1981

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
RECEIVED
DEC 2 1981
WASHINGTON, D.C. 20510

The Honorable James A. McClure
Chairman
Senate Committee on Energy and
Natural Resources
825 N. Capitol Street
Washington, D.C. 20426

Dear Mr. McClure:

Please find attached a copy of Resolution No. 191, duly and regularly adopted by the Sixteenth Guam Legislature.

We have made every attempt to be precise in our wording in order to convey exactly the sentiments and motives which led us to adopt this resolution.

We welcome any response or comments you deem proper.

Sincerely,

THOMAS C. CRISOSTOMO
Legislative Secretary

Enclosure

SIXTEENTH GUAM LEGISLATURE
1981 (FIRST) Regular Session

Resolution No. 191

Introduced by: E. T. Charfauros, M. Z. Bordallo
C. T.C. Gutierrez
J. I. Leon Guerrero
J. F. Quan
F. J. Quitugua
R. Q. Sudo
L. L. Umagat
J. T. San Agustin
F. R. Santos
F. F. Blas
T. C. Crisostomo
E. R. Duenas
C. A. Kasperbauer
A. C. Lamorena III
K. S. Moylan
P. F. Perez, Jr.
J. Q. Torres
T. V. C. Tanaka
J. H. Underwood
A. R. Unpingco

Relative to requesting the Congress and President Reagan to support Senate Bill No. 1674.

BE RESOLVED BY THE LEGISLATURE OF THE TERRITORY OF GUAM:

WHEREAS, Senate Bill No. 1674 introduced by Senator Lowell Weicker, Jr. seeks reimbursement of the loss of federal dollars due to the tax cut and federal program budget cuts; and

WHEREAS, some thirty million dollars are considered the net loss of revenues to the government of Guam due to these cuts; and

WHEREAS, this shortfall of revenues severely impacts on the overall economy of Guam; and

WHEREAS, the government of Guam cannot operate at present levels due to lack of funds; and

WHEREAS, this fiscal year, the government of Guam plans a 35-hour workweek in order to meet its payroll or suffer massive layoffs; and

WHEREAS, the reduction of working hours will cause severe hardship to the employees of government of Guam; and

WHEREAS, this loss of earnings is tragic since Guam's cost of living is ten percent (10%) higher than Washington, D.C.; and

WHEREAS, inflation, being the number one culprit of our economy, continues to be a more burdensome problem on Guam since we have to deal with importation of ninety percent (90%) of our foodstuff, articles and goods, etc.; and

WHEREAS, the construction industry is virtually at standing still due to absence of federal capital expenditures and private housing construction is limited due to high interest rates, cost of construction and the low levels of the average wage earner on Guam; and

WHEREAS, the planned withdrawal of the U.S.S. Proteus and Polaris Submarines will severely impact Guam's economy; now, therefore, be it

RESOLVED, that the people of Guam humbly request President Reagan and the U.S. Congress to lend their support to Senate Bill No. 1674 now being considered in committee; and be it further

RESOLVED, that the people of Guam appreciate and support the effort and concern of Senator Weicker for the problems facing this territory; and be it further

RESOLVED, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Honorable Ronald Reagan, President of the United States of America; to the Honorable Strom Thurmond, President Pro-tem of the United States Senate; to the Honorable Thomas P. O'Neill, Speaker of the House of Representatives, United States Congress; to Senator Lowell Weicker, Jr.; to the Honorable James A. McClure, Chairman of the

Senate Committee on Energy and Natural Resources Committee; to the members of the Senate Committee on Energy and Natural Resources; to the Honorable Robert Dole, Chairman, Senate Finance Committee; to the Honorable Howard H. Baker, Senate Majority Leader; to the Honorable James G. Watt, Secretary of the Interior; to Mr. Pedro San Juan, Director Designate, Office of Territories; to Congressman Antonio B. Won Pat; and to the Governor of Guam.

DULY AND REGULARLY ADOPTED ON THE 5TH DAY OF NOVEMBER 1981.

THOMAS C. CRISOSTOMO
Legislative Secretary

THOMAS V.C. TANAKA
Speaker